536.

SUPREME COURT OF THE UNITED STATES.

No. 111.

REUBEN L. LONG, JOHN S. PEMRISE, AND AMELIA PEMRISE HIS WIFE, AND ALICE PEMRISE, BY HER GUARDIAN, JOHN S. PEMRISE, COMPLAINANTS AND APPELLANTS,

vs.

JOHN O'FALLON.

APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF MISSOURI.

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DISTRICT OF MISSOURI, *sct:*

REUBEN L. LONG, JOHN S. PEMRISE, and AMELIA PEMRISE, his wife, ALICE PEMRISE, by her guardian, JOHN S. PEMRISE, complainants,
vs.
JOHN O'FALLON, defendant.

Be it remembered, that heretofore, to wit, on the sixth day of December, eighteen hundred and fifty-two, came the complainants aforesaid by their solicitor, and filed in the office of the clerk of the United States circuit court for the district of Missouri, their bill in chancery against the defendants aforesaid, which said bill in chancery is in the words and figures following, viz:

Bill in Chancery.

Reuben L. Long, of Shasta, and a citizen and resident of the State of California, John S. Pemrise and Amelia Pemrise, his wife, of Washington county, Mississippi, and citizens and residents of the State of Mississippi, Alice Pemrise, an infant under twenty-one years of age, of Washington county, Mississippi, and resident and citizen of the State of Mississippi, by John S. Pemrise, her guardian and next friend, plaintiffs, bring this bill against John O'Fallon.

IN THE CIRCUIT COURT OF THE UNITED STATES,
For the district of Missouri.

To the honorable the judges of the Circuit Court of the United States for the district of Missouri, in chancery sitting.

Your orators, Reuben L. Long, a resident and citizen of the State of California, John S. Pemrise and Amelia E. Pemrise, his wife, Alice Pemrise, an infant under twenty-one years of age, by John S. Pemrise, her next friend and guardian, all of whom are residents and citizens of the State of Mississippi, respectfully complaining, show unto your honors: That Gabriel Long, deceased, intermarried with his wife, Elizabeth, in the year eighteen hundred and nine, and that he departed this life in the month of October, 1822. They further show, that during his said marriage, the said Gabriel Long became the father of five children, viz: Reuben L., Parks B., Julia R., Amelia E., and Alton Long. That said Parks B. Long has departed this life, leaving one child named Clara V. Long, who is a citizen of Missouri, resident of St. Louis county, and an infant under the age of twenty-one years, and cannot be joined in this suit without ousting the jurisdiction of the court; that said Julia R. intermarried with John S. Pemrise, by whom she had one child named Alice, and then died, and that Amelia E. has since intermarried with said John S. Pemrise.

Your orators further show, that said Reuben L. Long is now a citizen and resident of the State of California; that said John S. Pemrise and Amelia, his wife, are now citizens and residents of the State of Mississippi, and that said Alice Pemrise, who is under the age of twenty-one years, is now a resident citizen of the State of Mississippi.

Your orators further represent, that the said Reuben L. Long, being a son of the said Gabriel, became entitled, as such, at his death, to his portion, as one of the heirs, of all the real estate of which he died seized in law or equity; that the said John S. Pemrise and Amelia E., his wife, who is a daughter of the said Gabriel Long, are entitled to one portion thereof, the first for life, and the second in fee simple; that is to say, the interest of one heir of, in, and to all the real property of which the said Gabriel died seized in law or equity.

Your orators further represent, that Alton Long, one of the sons and heirs of the said Gabriel, did, by deed dated the tenth day of November, 1852, convey to the said John S. Pemrise all his right, title, and interest in and to a certain tract of land situated on the river Gingrass, in the county of St. Louis and State of Missouri, being three arpens in front on the Mississippi river, and forty arpens, more or less, in depth, containing a superficies of one hundred and twenty arpens, more or less, being the same tract of land conveyed by deed of mortgage to the said Gabriel Long, deceased, by Alexander McNair, which said deed is hereinafter cited.

Your orators further represent, that by virtue of this conveyance, the said John S. Pemrise became entitled to the interest which the said Alton Long was entitled to as one of the heirs of the said Gabriel Long, in the said tract of land so conveyed by deed of mortgage to the said Gabriel.

Your orators further represent, that on the twenty-fifth day of November, 1820, the legal and equitable title in fee simple to one hundred and twenty arpens of land situated on the river Gingrass, in the county of St. Louis, and State of Missouri, "and fronting on the Mississippi river, and bounded southwardly by land formerly owned by Clement B. Penrise; northwardly by the land of Joseph Morin, and westwardly by the land now or formerly owned by Joseph Brazeau, being the same tract purchased by said Alexander McNair of Elijah Smith," was in the said Alexander McNair.

Your orators further represent, that the said Alexander McNair and Margaret, his wife, did, by their certain deed of mortgage executed on the twenty-fifth day of November, 1820, convey to Gabriel Long, his heirs, &c., the aforesaid tract of one hundred and twenty arpens of land, describing the same as recited in the preceding part of this bill.

Your orators further say, that the said deed of mortgage was executed for the purpose of securing the payment of the sum of one thousand eight hundred and eighty-nine dollars, for which a promissory note was executed to said Long by said McNair, bearing even date therewith, payable within one year from the date of said deed of mortgage, with interest at the rate of ten per cent. per annum.

Your orators further represent, that said sum of one thousand eight hundred and eighty-nine dollars, with the interest thereon as aforesaid, was not paid to the said Gabriel Long within twelve months after the date thereof, nor was it paid to him at any time prior to his death. They further represent, that the said Gabriel Long departed this life on the eighteenth day of October, 1822, and that Alexander McAllister did, on the seventeenth day of December, 1822, become the administrator of all and singular the goods, chattels, rights, credits, and estate of the said Long, by virtue of letters of administration granted to him by the county court of St. Louis county in the State of Missouri. They further represent, that the said McNair having totally failed to pay to the said McAllister, as administrator aforesaid, the said sum of one thousand eight hundred and eighty-nine dollars, with interest thereon as aforesaid, he, the said McAllister, did, on the nineteenth day of February, 1823, file in the office of the clerk of the circuit court, within and for the county of St. Louis, a petition for the foreclosure of said mortgage. They represent, that after the trial of the issues made upon said petition, the said circuit court did, on the twenty-third day of October, one thousand eight hundred and twenty-three, adjudge and decree that, inasmuch as the said sum of money with interest as aforesaid, or any part thereof, had not been paid by the said McNair to the said Gabriel Long in his lifetime, or the said Alexander McAllister, administrator as aforesaid, the said McAllister should recover of the said McNair and wife the aforesaid sum of money with interest as aforesaid, together with his costs and charges by him about his petition aforesaid expended; and also, that if said sum of money, with interest and costs as aforesaid, was not paid to said McAllister by said McNair and wife, on or before the first Monday in February, 1824, then the sheriff of St. Louis county is required and commanded to sell on that day the mortgaged premises in said petition mentioned, to pay and satisfy the debt, interest, and costs aforesaid. They further represent, that said sale was postponed by the court at the instance and by the consent of said McAllister, from time to time, without any just or good reason therefor, until the seventh day of July, 1824, when the court ordered the sale to be made, unless the said debt, interest, and costs *was* paid prior to that day, on the fourth Monday in August following. They further show, that in obedience to the last-mentioned order, the sheriff of St. Louis county did proceed to advertise according to law the aforesaid mortgaged premises, and did, on the said fourth Monday of August, 1824, being the twenty-third day of said month, expose the said property at public sale to the highest bidder. They further show, that the said Alexander McAllister, who was then the administrator of Gabriel Long, became the purchaser of said mortgaged premises, being the highest bidder, for the sum of one hundred and twenty dollars.

Your orators represent, that on the eighteenth day of October, 1824, the said sheriff of St. Louis county did by his certain deed convey to said McAllister, his heirs and assigns, the said premises, describing the

same as the same land mortgaged by McNair to said Long. They further represent, that on the fifteenth day of November, 1823, one Catharine Dodge was permitted, by the register and receiver of the land office located in St. Louis, to enter fractional sections thirty-four and twenty-six, township forty-six north, and range seven east, containing one hundred and twenty-eight acres and seventy-nine hundredths of an acre, which entry was made for the use and benefit of said Alexander McNair, and at his instance; and which said entry conflicted in part with the land so deeded by the sheriff as aforesaid to said McAllister. They represent that said McAllister, knowing himself to be a trustee for the heirs of Gabriel Long, and wishing to fortify his title by the purchase of all outstanding claims, procured and entered into an agreement with said Catharine Dodge and said Alexander McNair, by which he might be enabled to extinguish any claim, real or pretended, of the said Catharine Dodge, and thereby confirm the title of the said heirs; said agreement was as follows, viz: That said Catharine, who was the mother-in-law of said McNair, should convey to said McAllister, as administrator, the said land so entered as aforesaid, to secure to said McAllister the amount which was due to him from McNair, as administrator of Long, and also other sums of money due from said McNair to said McAllister, making in all twenty-six hundred and fifty-six dollars, with interest thereon—the moneys for which the land was so conveyed as security were to be paid as follows, viz: Six hundred and fifty dollars on the first of September, 1825, and at the same time all accruing interest on the whole debt; on the first of September, 1826, all accruing interest on the balance of the debt; and on the first of September, 1827, the balance of the debt with the interest thereon. When these payments were made the said McAllister bound himself to reconvey to said Catharine the said land, and also to reconvey the title he had already purchased at the sheriff's sale to said McNair. If the payments were not made as stipulated, said McAllister was to retain the estate procured at said sheriff's sale, and sell the estate so conveyed by Catharine Dodge to secure the debts aforesaid, at any time he chose, and to the best advantage. This agreement was reduced to writing, signed by said McAllister and by said McNair, and by said Catharine Dodge duly acknowledged on the fifth of August, 1824, previous to the sale of the sheriff aforesaid, and recorded on the fifth of September, 1825.

Your orators further represent, that after the purchase so made, by said McAllister, at the sheriff's sale, and after the deed of mortgage was so executed by said Catharine Dodge, he, the said McAllister, with the fraudulent intention of appropriating to his own use the lands so secured by him as administrator and trustee for the heirs of Long, procured the register and receiver of the land office, located in St. Louis, to permit him to enter, and he did enter, on the fifth of January, 1828, in his own name, fractional sections, number twenty-seven, thirty-three, and thirty-five, of township forty-six north, and range seven east, containing about nine acres, more or less, and being a part

of the same tract of land so held by him as administrator and trustee for the heirs of Long.

Your orators further show, that on the twenty-fifth day of February, 1833, the said Alexander McAllister and Elizabeth, his wife, by their certain deed did convey said tract of land, so purchased by him at the sheriff's sale, and portions of which he obtained a mortgage for from Catharine Dodge, and other portions illegally and fraudulently entered to John O'Fallon, of the county of St. Louis, and State of Missouri. They represent that said conveyance was made in consideration of the sum of twelve hundred dollars, and was a quit-claim deed to said McAllister and wife, expressly stipulating that it was without any recourse whatever on the said Alexander McAllister, for any defect or want of title as derived from either Alexander McNair and wife or Mrs. Catharine Dodge, it being the express understanding of the parties thereto, and the deed was intended to convey only such title as the said Alexander now had in the premises, without any covenant or warranty whatever.

Your orators allege, that by the foreclosure of the mortgage executed by McNair and wife to Long, and the sale of the premises legally made, the equity of redemption remaining in McNair and wife was extinguished, and the said McAllister being the administrator of said Long, became, in fact and in law, a trustee for the heirs of Gabriel Long, and held the same in trust for them. They further allege, that the deed of conveyance executed by Catharine Dodge, to secure debts due to McAllister and the estate of Long, enured to the benefit of the heirs of said Long in law and equity. They further allege, that the entry made by said McAllister, of fractional sections numbered twenty-seven, thirty-three, and thirty-five, enured in law and equity to the benefit of the heirs of Long, whose trustee said McAllister was at the time the entries were made. They allege that the legal effect of said conveyance and said entry was to fortify the trust estate which McAllister held for the heirs, and not to create any title in him to any part of said land. They further allege, that knowing himself to be their trustee in the purchase of said premises, the said McAllister never accounted to and with the said heirs, or to and with the county court of St. Louis county, for the said sum of one hundred and twenty dollars, the price for which said land was sold at the sale under the mortgage executed by McNair. They further allege, that the said John O'Fallon was a purchaser with notice, in fact and in law, and that the sale made by McAllister and wife to him was fraudulent in law and in fact, and so known to be by him. They allege that said O'Fallon became, by virtue of the conveyance from McAllister and wife to him, a trustee for the heirs of said Gabriel Long, and stood bound then, and does yet, to them, in law and equity, to the same extent which said McAllister had stood bound to them. They allege, that in the purchase of a trust estate the said O'Fallon could not, at the same time and by the same instrument, avail himself of any outstanding title which would defeat said trust and vest the fee simple in him. They allege further, that the

conveyance by Catharine Dodge to McAllister was made to him as administrator of Long, and, consequently, that O'Fallon must have known the fact, and must have known also that it operated as the deed of trust for the benefit of Long's heirs. They allege further, that the fraudulent intent of McAllister, in making the sale to O'Fallon, is shown by the fact, which they aver to be true, that he never pretended to account to and with the heirs of Long, or to and with the county court, for the said sum of twelve hundred dollars, the amount for which he sold said land to O'Fallon. Finally they allege, that the original deed from Alton Long to John S. Penrise, the deed of mortgage from McNair and wife, the decree of the circuit court for the foreclosure of said mortgage, the sheriff's deed to McAllister, the conveyance from Catharine Dodge, embracing articles of agreement between McAllister and McNair, and said Catharine, and the deed of McAllister and wife to O'Fallon, are all duly of record in conformity to law.

Your orators pray that John O'Fallon, who is in possession of said premises, may be made defendant to this their bill.

Your orators pray that the court will render a decree against the defendant, and in favor of your orators, for the premises described in this their bill; and that the court will issue such process as may be needful, and in conformity to the rules of equity, to secure to them their rights, and place them in the legal possession of the premises aforesaid.

Your orators further pray the court to compel said defendant, by such process and proceedings as are consistent with law and equity, to account to and with your orators for the rents and profits of said premises during the period which has elapsed, from the twenty-fifth day of February, 1833, the time when said premises were purchased by said O'Fallon, up to the present time; and that the court will decree the payment of whatsoever sum may be found to be due, and order execution to be issued and levied for the recovery of the same, and the payment thereof to your orators; and that the court will grant to your orators general relief on the case made by their bill. To the end, therefore, that the said defendant may, if he can, show why your orators should not have the relief hereby prayed, and may, upon his corporal oath, and according to the best and utmost of his knowledge, remembrance, information and belief, full, true, direct and perfect answer make to the several interrogatories hereinafter mentioned, numbered and set forth, as by the note hereunder written he is requested to answer, that is to say:

1. Whether said Gabriel Long was not married to his wife, Elizabeth, in 1809.

2. Whether said Gabriel did not die in October, 1822.

3. Whether all the children of said Gabriel were not *not* Parks B. Long, Reuben L. Long, Julia Long, Amelia Long, and Alton Long.

4. Whether said Parks did not die leaving his daughter Clara his only heir.

5. Whether Julia Long did not marry John S. Penrise, and said Julia did not die leaving said Alice her only child and heir.

6. Whether said Amelia did not marry said John S. Penrise.

7. Whether said Alton Long did not convey all his interest in the tract of land mentioned in the foregoing bill to said John S. Penrise.

8. Whether Alexander McNair and wife did not, on 25th November, 1820, execute the mortgage to Gabriel Long on said tract of land, to the tenor and effect in that behalf mentioned in the bill.

9. Whether Alexander McAllister did not take out letters of administration on the estate of the said Gabriel Long, as mentioned in the bill.

10. Whether said McNair did not fail to pay the said mortgage debt, and whether said McAllister, as administrator of said Gabriel Long, did not, as mentioned in the said bill, institute proceedings in the circuit court of St. Louis county to foreclose said mortgage and sell the property, and did not prosecute the same to judgment, as mentioned in said bill.

11. Whether the said premises were not sold by the sheriff of St. Louis county, under an execution issued on said judgment of foreclosure in favor of the said McAllister, as administrator of said Gabriel Long.

12. Whether the said McAllister, still being the administrator of said Gabriel Long, did not purchase the same at the sum of one hundred and twenty dollars on the 23d day of August, 1824.

13. Whether the sheriff of St. Louis county did not, on the 18th day of October, 1824, convey the said tract of land to the said Alexander McAllister, his heirs and assigns.

14. Whether the said Catharine Dodge did not, on the 15th November, 1823, enter with the register and receiver of the land office at St. Louis, Missouri, fractional No. 34 and 26, T. 46 N., R. 7 E., containing $128\frac{79}{100}$ acres; and whether said entry did not interfere with the tract conveyed by McNair and wife in mortgage to Long, and sold by the sheriff to said McAllister; and whether said Catharine did not make said entry for the use and benefit, and at the instance and request of said Alexander McNair.

15. Whether said McAllister, as adm'r of said Gabriel Long, did not make the written agreement and receive the conveyance contained in the said instrument mentioned in the bill, as executed by said McNair and Catharine Dodge, whereby said Catharine conveyed to said McAllister, as administrator of said Long, the land entered by her, as aforesaid, and whether said conveyance and agreement was not procured by said McAllister to fortify and strengthen the title of said Gabriel's heirs in and to said estate purchased at said sheriff's sale.

16. Whether said McAllister did not, after receiving said conveyance from said Dodge, proceed to sell and purchase said estate at said sheriff's sale under said foreclosure of mortgage, thereby vesting in himself a trust estate for the heirs of said Long.

17. Whether said McAllister did not, after so vesting said mortgaged premises in himself in trust for the heirs of the said Gabriel Long, and while he so held the same in trust, enter at the said land office at St. Louis fractional sections No. 27, 33, and 35, all in township 46,

range 7 east; and whether said entries by said McAllister *was* not made Jan'y 5, 1828, and did not interfere with said trust estate.

18. Whether said McAllister and wife did not, February 25, 1833, convey, in consideration of twelve hundred dollars to said O'Fallon, said trust estate so purchased by said McAllister at the said sheriff's sale; and whether said McAllister and wife did not, at same time, and by same conveyance, transfer to said O'Fallon, also, all interest acquired by Catharine Dodge by her entry, in support of said trust estate so obtained by said McAllister at said sheriff's sale.

19. Whether said O'Fallon did not, at the time of receiving his said conveyance from said McAllister and wife, or at the time of completing the payment of said purchase-money of twelve hundred dollars above mentioned, have notice that said McAllister had purchased the said lands while he was administrator of said Gabriel Long at said sheriff's sale.

20. Whether the said McAllister did not fail to render any account of the said sum of one hundred and twenty dollars bid by him at said sheriff's sale, and whether said O'Fallon did not have notice thereof at the receiving of his deed from McAllister and wife, or at the completing of the payment of said purchase-money.

21. Whether the said O'Fallon and the said McAllister did not agree, previous to the conveyance by said McAllister and wife to O'Fallon, that the right of said McAllister to sell said land to O'Fallon was questionable, and that the said McAllister would not warrant the title thereto, but that said O'Fallon should risk everything in relation thereto, and adjust, on his own responsibility, all outstanding rights and claims with the heirs of said Gabriel Long.

22. Whether said McAllister did not fail to account to the estate of Gabriel Long for the said 1200 dollars paid him by O'Fallon, and whether O'Fallon did not pay the said sum of money to the said McAllister, in his, McAllister's own right, and did not have notice at the time of receiving his deed, or at the time of his completing the payment of said 1200 dollars; that said McAllister claimed the said property in his own right, and sold it in his own right.

23. Whether said O'Fallon has not been in the possession of said premises, and received the rents and profits thereof, and how long he has been in possession, and what has been the value of the said rents and profits so received by him while in the possession of said premises.

LOUGHBOROUGH, WRIGHT & LINN,
Solicitors for the plaintiffs.

Upon the filing of the foregoing bill, the following order was made herein, viz:

Subpœna awarded.

In vacation, December 6th, 1852.

REUBEN L. LONG & others, complainants,
against
JOHN O. FALLON, defendant. } In Chancery.

This day comes the complainants, by Messrs. Loughborough, Wright, & Linn, their solicitors; and on their motion, a subpœna in chancery

is awarded against the defendant in this cause, upon the bill this day filed, said subpœna to be returnable to the January rules, 1853; which said subpœna is as follows, viz:

Subpœna.

MISSOURI DISTRICT, *sct:*

The President of the United States, to John O'Fallon, greeting:

You are hereby commanded to be and appear at rules to be held at the office of the clerk of the circuit court of the United States for the district of Missouri, on the first Monday of January next, at the city of St. Louis, then and there to answer the bill of complaint of Reuben L. Long, a citizen of the State of California, and John S. Pemrise and Amelia Pemrise, his wife, and Alice Pemrise, an infant under twenty-one years of age, by John S. Pemrise, her guardian and next friend, citizens of the State of Mississippi, filed against you on the sixth day of December, 1852. Hereof fail not.

Witness the honorable Roger B. Taney, chief justice of the United States, the sixth day of December, 1852. Issued at office, in the city of St. Louis, under the seal of said court, the day and year last aforesaid.

[L. S.]

BEN. F. HICKMAN, *Clerk.*

Memo.—The defendant to enter his appearance in this suit, in the clerk's office, on or before the day at which the writ is returnable, otherwise the bill may be taken pro confesso.

BEN. F. HICKMAN, *Clerk.*

Marshal's Return.

Upon the foregoing subpœna the marshal made the following return, viz: I hereby certify, that I executed the within summons by delivering a copy of the same, also a copy of the bill herein mentioned, to the defendant, John O'Fallon, at St. Louis, within the Missouri district, on the 16th day of December, 1852.

H. B. BABER, *Marshal of Mo.*
By FRANCIS JONES, *Dept.*

Afterwards, at rules begun and held at the clerk's office in the city of St. Louis, on the first Monday, being the third day of January, 1853, the following proceedings were had herein, viz:

Deft. enters his Appearance.

REUBEN L. LONG & others
against
JOHN O'FALLON.
} In chancery.

The defendant, John O'Fallon, by Messrs. Krum & Harding, his solicitors, comes and enters his appearance in this cause.

Afterwards, at rules begun and held at the clerk's office in the city of St. Louis, on the first Monday, being the seventh day of February, 1853, the following further proceedings were had herein, viz:

Demurrer filed.

REUBEN L. LONG and others, compl'ts,
ag'nst
JOHN O'FALLON, defendant. } In chancery.

This day comes the defendant, by Krum & Harding, his solicitors, and files his demurrer to the bill of the complainants in this cause; which said demurrer is as follows, viz:

Demurrer.

REUBEN L. LONG and others, compl'ts,
vs.
JOHN O'FALLON, deft. } In chancery.

The defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill of complaint contained to be true, in such manner and form as the same are therein and hereby set forth and alleged, doth demur in law to the said bill, and for cause of demurrer showeth: 1st. That it appears by the said complainants' own showing by their said bill, that Clara V. Long is interested both in the subject and object of the said bill, and therefore a necessary party thereto. Said bill is therefore defective for want of proper parties. 2. That said bill is exhibited against this defendant in respect to several and distinct and independent matters and causes which have no relation to each other, and wherein and whereof this defendant is in no way interested or concerned, and ought not to be implicated. 3d. That the said complainants have not, in and by their said bill, shown any right to the discovery or to the account sought thereby of this defendant. 4th. That the facts stated and set forth in the complainants' said bill are not sufficient to imply a trust therefrom, and to change this defendant as trustee for the complainants in respect to the real estate in said bill described. 5th. That the said complainants, in and by their said bill, pray that the possession of the lands and premises mentioned in said bill may be decreed to the said complainants, whereas it is not within the jurisdiction or power of a court of equity to grant such relief. 6th. That the complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery from this defendant touching the matters complained of, or any of them; nor to have any relief in the premises against this defendant of and concerning the said matters, or any of them; wherefore, and for divers other good causes of demurrer appearing in the said bill of complaint, this defendant doth demur to the said bill, and to all the matters and things therein contained, and prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he prays to be hence dismissed with his reasonable costs in this behalf sustained.

KRUM & HARDING, *Solicitors for deft.*

We certify, that in our opinion the foregoing demurrer is well-founded in point of law.

KRUM & HARDING,
Solicitors, and of counsel for defendant.

John O'Fallon, defendant in the above-entitled cause, being duly sworn, says, that the above demurrer is not interposed for delay.

J. O'FALLON.

Subscribed and sworn to before me, this 14th day of Jan-
[L. S.] uary, 1853, and in testimony whereof I have hereunto set my hand and official seal.

AUGUSTUS W. SCHARIT,
Notary Public, within and for the county of St. Louis, Mo.

Afterwards, at rules begun and held at the clerk's office in the city of St. Louis, on the first Monday, being the seventh day of March, 1853, the following further proceedings were had herein, viz:

Petition to set down demurrer for hearing filed.

REUBEN L. LONG and others, compl'ts,
ag'st
JOHN O'FALLON, deft. } In chancery.

This day come the complainants by their solicitors, Wright, Loughborough, and Linn, and file their petition to set down the demurrer of defendant for hearing, according to the rules and practice of this court in such cases; which said petition is as follows, viz:

Petition to set down demurrer for hearing.

REUBEN L. LONG and others, pl'ffs,
vs.
JOHN O'FALLON, deft.

U. S. Cir. Court.—Vacation, 1853.

To the hon. the Judges circuit court of the United States for the eastern district of Missouri, in chancery sitting:

The petition of the plaintiffs in this cause respectfully showeth: That heretofore, to wit, on the sixth day of December, 1852, the said plaintiffs filed their bill in this honorable court against the said deft., praying, &c., &c.; that afterwards, at the rule-day of said court, on the first Monday in Feb'y, 1853, said deft. appeared thereto and filed a demurrer to said bill, which has been duly entered, but has not yet been set down.

Your petitioners pray, that the said demurrer may be set down for hearing according to the rules and practice of this hon. court in such cases. And your petitioners will ever pray, &c.

WRIGHT, LOUGHBOROUGH & LINN,
Solicitors for the Petitioners.

Afterwards, at the October term, 1853, of our United States circuit court for Missouri district, on Monday, October 4th, 1853, the following proceedings were had herein, viz:

Demurrer heard, and court takes time to consider same.

REUBEN L. LONG and others, complainants,
ag'st
JOHN O'FALLON, defendant. } In chancery.

This day come the parties by their solicitors, and the demurrer filed herein by defendant to the bill of complainants was set for hearing on this day, and the questions arising upon said demurrer were argued and submitted to the court, and the court not being fully advised of and concerning the same, took time to consider thereof.

Afterwards, at the term last aforesaid of our said court, on Friday, October 7th, 1853, the following further proceedings were had herein, viz:

Demurrer sustained as to 1st ground of same, and overruled as to remainder.—Leave to compl'ts to amend.

REUBEN L. LONG and others, complainants,
ag'st
JOHN O'FALLON, defendant. } In chancery.

This day comes again the parties by their solicitors, and the court being now sufficiently advised of and concerning the questions arising upon the demurrer filed herein to the bill of complaint, is of opinion, and now order, that said demurrer be sustained as to the first ground or cause set forth in the same, and that the said demurrer as to all the other causes of demurrer set forth therein be, and the same is hereby, overruled; and, on motion of complainants by their solicitor, leave is given them to amend their bill, and time allowed until the first Monday in November to file said amendment; and a copy of same when filed to be served on defendant, O'Fallon.

Amended Bill filed.

Afterwards, the following further proceedings were had herein, viz.:

In vacation—October 22d, 1853.

REUBEN L. LONG, &c., complainants,
agst.
JOHN O'FALLON, &c., defendants. } In chancery.

This day come the complainants, by Messrs. Loughborough, Wright & Lynn, their solicitors, and file their amended bill in accordance with the order made in this cause at last term of this court, and on motion of said solicitors, a subpœna in chancery is awarded on said amended bill against the defendant, Clara V. Long, returnable on first Monday in

November next; and a copy of said amended bill to be furnished defendant, O'Fallon. Which said amended bill is as follows, viz.:

Amended Bill.

Reuben L. Long, of Sharta, and a citizen and resident of the State of California; John S. Penrise, and Amelia Penrise, his wife, of Washington county, Mississippi, and residents of the State of Mississippi; Alice Penrise, an infant under twenty-one years of age, of Washington county, Mississippi, and citizen and resident of the State of Mississippi, by John S. Penrise, her guardian and next friend, plaintiffs, bring this bill against John O'Fallon and Clara V. Long, an infant under the age of twenty-one years.

In the Circuit Court of the United States for the District of Missouri.

By leave of the court first had and obtained, the plaintiffs herewith file their amended bill in the words and figures following:

To the honorable the judges of the Circuit Court of the United States for the District of Missouri, in chancery sitting.

Your orators, Reuben L. Long, a resident and citizen of the State of California; John S. Penrise, and Amelia E. Penrise, his wife; Alice Penrise, an infant under twenty-one years of age, by John S. Penrise, her next friend and guardian, all of whom are residents and citizens of the State of Mississippi, respectfully complaining, show unto your honors: That Gabriel Long, deceased, intermarried with his wife, Elizabeth, in the year eighteen hundred and nine, and that he departed this life in the month of October, 1822; they further show, that during his said marriage, the said Gabriel Long became the father of five children of said marriage, viz.: Reuben L., Parks B., Julia R., Amelia E., and Alton Long. That said Parks B. Long has departed this life, leaving one child named Clara V. Long, who is a citizen of the State of Missouri, resident of the county of St. Louis, an infant under the age of twenty-one years, and who was not made a party to the original bill of complainants, to avoid any ouster of the jurisdiction of this court over the subject-matter of the bill. That said Julia R. intermarried with John S. Penrise, by whom she had one child named Alice, and then died; and that said Amelia E. has since intermarried with said John S. Penrise.

Your orators further show, that said Reuben L. Long is now a citizen and resident of the State of California; that said John S. Penrise and Amelia, his wife, are now citizens and residents of the State of Mississippi; and that said Alice Penrise, who is under the age of twenty-one years, is now a resident of the State of Mississippi.

Your orators further represent, that the said Reuben L. Long, being a son of the said Gabriel, became entitled as such, at his death, to his portion as one of the heirs of all the real estate of which the said Gabriel died seized in law or equity; that the said John S. Penrise and Amelia E., his wife, who is a daughter of the said Gabriel Long, are entitled to one

portion, the former for life, the latter in fee simple; that is to say, the interest of one heir of, in, and to all the real property of which the said Gabriel died seized in law or equity.

Your orators further represent, that Alton Long, one of the sons and heirs of the said Gabriel, did by deed dated the tenth day of November, 1852, convey to the said John S. Penrise all his right, title, and interest in and to a certain tract of land situated on the river Gingrass, in the county of St. Louis and State of Missouri, being three arpens in front on the Mississippi river, and forty arpens more or less in depth, containing a superficies of one hundred and twenty arpens, more or less, being the same tract of land conveyed by deed of mortgage to the said Gabriel Long, deceased, by Alexander McNair, which said deed is hereinafter cited.

Your orators further represent, that by virtue of this conveyance, the said John S. Penrise became entitled to the interest which the said Alton Long was entitled to as one of the heirs of the said Gabriel Long, in the said tract of land so conveyed by deed of mortgage to the said Gabriel.

Your orators further represent, that on the twenty-fifth day of November, 1820, the legal and equitable title in fee simple to one hundred and twenty arpens of land, situated on the river Gingrass, in the county of St. Louis and State of Missouri, and fronting on the Mississippi river, and bounded southwardly by land formerly owned by Clement P. Penrose, northwardly by the land of Joseph Morin, and westwardly by the land now or formerly owned by Joseph Brazeau, being the same tract purchased by said Alexander McNair of Elijah Smith, was in Alexander McNair.

Your orators further represent, that the said Alexander McNair and Margaretta, his wife, did, by their certain deed of mortgage, executed on the 25th day of November, 1820, convey to Gabriel Long, his heirs, &c., the aforesaid tract of one hundred and twenty arpens of land, describing the same, as recited in the preceding part of this bill. Your orators further say, that the said deed of mortgage was executed for the purpose of securing the payment of the sum of one thousand eight hundred and eighty-nine dollars, for which a promissory note was executed to said Long by said McNair, bearing even date therewith, payable within one year from the date of said deed of mortgage, with interest at the rate of ten per cent. per annum.

Your orators further show, that the sum of one thousand eight hundred and eighty-nine dollars, with the interest thereon as aforesaid, was not paid to the said Gabriel Long within twelve months after the date thereof, nor was it paid to him at any time prior to his death. They further show, that the said Gabriel Long departed this life on the 18th day of October, 1822, and that Alexander McAllister did, on the 17th day of December, 1822, become the administrator of all and singular the goods, chattels, rights, credits, and estate of the said Gabriel Long, by virtue of letters of administration granted to him by the county court of St. Louis county, in the State of Missouri. They further represent,

that the said McNair having failed to pay to the said McAllister, as administrator aforesaid, the said sum of one thousand eight hundred and eighty-nine dollars, with interest thereon, he, the said McAllister, did, on the 19th day of February, 1823, file in the office of the clerk of the circuit court within and for the county of St. Louis, a petition for the foreclosure of said mortgage. That, after a trial of the issues made upon said petition, the said circuit court did, on the 23d day of October, 1823, adjudge and decree, that inasmuch as the said sum of money, with interest thereon aforesaid, or any part thereof, had not been paid by the said McNair to the said Gabriel Long in his lifetime, nor to the said McAllister, as administrator, the said McAllister, as administrator aforesaid, should recover of the said McNair and wife the aforesaid sum of money, with interest as aforesaid, together with his costs and charges by him about his petition aforesaid expended; and also, that if said sum of money, with interests and costs as aforesaid, was not paid to said McAllister by said McNair and wife, on or before the first Monday in February, 1824, then the sheriff of St. Louis county is required and commanded to sell, on that day, the mortgaged premises in said petition mentioned, to pay and satisfy the debt, interest, and costs aforesaid. They further represent, that said sale was postponed by the said court, at the instance and by the consent of the said McAllister, from time to time, without any just or good reason therefor, until the 7th day of July, 1824, when the court ordered the sale to be made, unless the said debt, interest, and costs were paid prior to that day, on the fourth Monday in August following. They further show, that in obedience to the last-mentioned order, the sheriff of St. Louis county did proceed to advertise, according to law, the aforesaid mortgaged premises, and did, on the said 4th Monday of August, 1824, being the 23d day of said month, expose the said property at public sale to the highest bidder. They further show, that the said Alexander McAllister, who was then the administrator of Gabriel Long, became the purchaser of said mortgaged premises, being the highest bidder, for the sum of one hundred and twenty dollars. That on the 18th day of October, 1824, the said sheriff of St. Louis county did, by his certain deed, convey to said McAllister, his heirs and assigns the said premises, in virtue of said sale, describing the same as the same land mortgaged by McNair to said Gabriel Long.

Your orators further represent, that on the fifteenth day of November, 1823, one Catharine Dodge was permitted, by the register and receiver of the land office, located in St. Louis, to enter fractional sections thirty-four and twenty-six, township forty-six north, and range seven east, containing one hundred and twenty-eight acres, which said entry, as your orators aver, was made for the use and benefit of said Alexander McNair, and at his instance and request, and which said entry conflicted in part with the land so deeded by the sheriff as aforesaid to said McAllister. They represent and aver the fact to be, that said McAllister, well knowing himself to be a trustee for the heirs of Gabriel Long, deceased, and wishing to fortify his title by the purchase of all

outstanding claims, procured and entered into an agreement with said Catharine Dodge and said Alexander McNair, by which he might be enabled to extinguish any claim, real or pretended, of the said Catharine Dodge, and thereby confirm the title of said heirs of Gabriel Long. They aver the said agreement to be as follows: That said Catharine Dodge, who was the aunt of the wife of said McNair, should convey to said McAllister, as administrator of said Long deceased, the land, so entered as aforesaid, to secure to said McAllister the said amount due to him as the administrator of Long, and also other sums of money due from McNair to him, as such administrator, making in all the sum of twenty-six hundred and fifty-six dollars, with interest thereon; the moneys for which the land was so conveyed as security were to be paid as follows, viz: Six hundred and fifty dollars on the first of September, 1825, and at the same time all accruing interest on the whole debt; on the first of September, 1826, all accruing interest on the balance of the debt; and on the first of September, 1827, the balance of the debt with the interest thereon. When these payments were made the said McAllister bound himself to re-convey to said Catharine Dodge the said land, and also to reconvey the title he had already purchased at the sheriff's sale, to said McNair. If the payments were not made as stipulated, said McAllister was to retain the estate procured at sheriff's sale, and sell the estate so conveyed by Catharine Dodge, to secure the debts aforesaid, at any time he chose, and to the best advantage. This agreement was reduced to writing, signed by said McAllister, and by said Alexander McNair, and by said Catharine Dodge duly acknowledged on the 5th of August, 1824, previous to the sale by the sheriff as aforesaid, and recorded on the 5th September, 1825, (eighteen hundred and twenty-five,) A.

Your orators further represent, that after the purchase so made by McAllister, at the sheriff's sale, and after the deed of mortgage was so executed by said Catharine Dodge, he, the said McAllister, with the fraudulent intention of appropriating to his own use the lands so secured by him as administrator and trustee for the heirs of Gabriel Long, deceased, procured the register and receiver of the land office located in St. Louis to permit him to enter; and he did enter on the 5th January, 1828, in his own name, fractional sections numbered twenty-seven, thirty-three, and thirty-five of township forty-six north, and range seven east, containing about nine acres, more or less, and being a part of the same tract of land so held by him as administrator and trustee for the heirs of Gabriel Long, deceased.

Your orators further show, that on the twenty-fifth day of February, 1833, the said Alexander McAllister and Elizabeth, his wife, by their certain deed, did convey said tract of land, so purchased by him at the sheriffs sale aforesaid, and portions of which he obtained a mortgage for from Catharine Dodge, and other portions illegally and fraudulently entered as aforesaid, to John O'Fallon, of the county of St. Louis, and State of Missouri. They represent, that the said conveyance was for the sum of twelve hundred dollars, as consideration, and a mere

quit-claim deed—the said McAllister and wife expressly stipulating in the deed, that the conveyance was without any recourse whatever on the said Alexander McAllister for any defect or want of title, as derived either from Alexander McNair and wife, or from Catharine Dodge, it being the express understanding of the parties thereto, and the deed is intended to convey only such title as the said Alexander McAllister now has in the premises, without any covenant or warranty whatever.

Your orators aver, that by the foreclosure of the mortgage executed by McNair and wife to Gabriel Long, and the sale of the premises legally made, the equity of redemption remaining in McNair and wife was extinguished; and said McAllister being then the administrator of said Gabriel Long, deceased, became, in fact and in law, a trustee for the heirs of said Long, and held the estate purchased in trust for them. They further allege, that the deed of conveyance, executed by Catharine Dodge to secure debts due to McAllister as administrator of the estate of Long, enured to the benefit of the heirs of said Long in law and equity. They further allege, that the entry made by said Alexander McAllister, of fractional sections numbered twenty-seven, thirty-three, and thirty-five, aforesaid, enured in law and equity to the heirs of Gabriel Long, deceased, whose trustee the said McAllister was at the time when those entries were made. They allege, that the effect of said conveyance and said entry was to fortify the trust estate which McAllister held for the said heirs, and not to create any title in the said McAllister to any part of said land. They further allege, that knowing himself to be the trustee of the heirs of Long, aforesaid, in the purchase of said premises, he, the said McAllister, never accounted to and with the said heirs, or to and with the county court of St. Louis county, for the said sum of one hundred and twenty dollars, the price for which said land was sold, at the sale under the foreclosure of the mortgage executed by McNair. They further allege, that the said John O'Fallon was a purchaser, with notice, in fact and in law; that he was receiving a trust estate from the hands of McAllister; and that the sale made by McAllister and wife, to him, was fraudulent in law and in fact, and was so known to be by him. They allege, that said O'Fallon became, by virtue of the conveyance from McAllister and wife to him, a trustee for the heirs of said Gabriel Long, and stood bound to them, and yet so stands bound to them, in law and equity, as the said McAllister was bound to them. They allege, that in the purchase of the trust estate, aforesaid, the said O'Fallon could not at the same time, and by the same instrument, avail himself of any outstanding title which would defeat said trust, and vest the fee simple in himself. They allege, further, that the conveyance by Catharine Dodge to McAllister was made to him as administrator of Gabriel Long, deceased; and that on the face of the instrument, notice is given to said O'Fallon that the conveyance operated as a deed of trust for the benefit of the heirs of Gabriel Long. They allege, further, that the fraudulent intent of McAllister, in making the conveyance to said O'Fallon, was manifested by the failure of said McAllister to account

for the said sum of twelve hundred dollars, for which he made the quit-claim deed of conveyance to the said O'Fallon. Finally, they allege, that the original deed from Alton Long to John S. Penrise, the deed of mortgage from McNair and wife to Gabriel Long, the decree of the circuit court for the foreclosure of said mortgage, the sheriff's deed to McAllister aforesaid, and the conveyance from Catharine Dodge, embracing articles of agreement between McAllister and McNair and said Catharine Dodge, and the deed of McAllister and wife to O'Fallon, are all duly of record, in conformity with law, and that the said John O'Fallon is in possession of the said premises.

Your orators pray that the said John O'Fallon, and the said Clara Long, an infant, under the age twenty-one years, may be made defendants to this bill; the said Clara to be represented in this court by a guardian ad litem, or by such other person as the court may regard as the best protector of her interest in the subject of contest. Your orators also pray, that the court will render a decree against the said defendant, John O'Fallon, and in favor of your orators, for the premises described in their bill, in such mode as may be deemed most efficient by this court, to secure to your orators their right to the said premises; and that this court will issue such process as may be needful, and in conformity with the rules of equity, to place them in the legal possession of the premises aforesaid.

Your orators pray the court to take such steps as are usual or proper to compel the defendant, John O'Fallon, to account to your orators for the rents and profits of said premises during the period which has elapsed from the 25th day of February, 1833—the time when said premises were purchased by said O'Fallon from said McAlister—up to the time of the decree; and that the court will decree the payment of whatever sum shall be found to be due under such accounting, and award execution therefor against said O'Fallon and in favor of your orators; and that the court will grant such other and further relief as your orators may show themselves entitled to. To the end that the said defendant, O'Fallon, may, if he can, show why your orators should not have the relief hereby prayed, your orators pray that he may be compelled to answer, on his corporal oath and according to the best of his knowledge, remembrance, information, and belief, fully, truly, and perfectly, the following interrogatories herein underwritten and numbered, that is to say:

Interrogatory 1. Whether said Gabriel Long was not married to his wife Elizabeth in 1809?

2. Whether said Gabriel did not die in October, 1822?

3. Whether all the children of said Gabriel were not Parks B. Long, Reuben L. Long, Julia Long, Amelia Long, and Alton Long?

4. Whether said Parks B. did not die leaving his daughter Clara his only heir?

5. Whether Julia Long did not marry John S. Penrise, and whether said Julia did not die, leaving said Alice her only child and heir?

6. Whether said Amelia did not marry said John S. Penrise?

7. Whether said Alton Long did not convey all his interest in the tract of land mentioned in the foregoing bill to said John S. Penrise?

8. Whether Alexander McNair and wife did not, on the 25th November, 1820, execute the mortgage to Gabriel Long, to the tenor and effect in that behalf mentioned in this bill?

9. Whether Alexander McAlister did not take out letters of administration on the estate of the said Gabriel Long, as mentioned in this bill?

10. Whether said McNair did not fail to pay the said mortgage-debt; and whether said McAlister, as administrator of said Gabriel Long, did not, as mentioned in the said bill, institute proceedings in the circuit court of St. Louis county to foreclose said mortgage, and sell the mortgaged premises, and did not prosecute the same to judgment, as mentioned in said bill?

11. Whether the said premises were not sold by the sheriff of St. Louis county, under an execution issued on said judgment of foreclosure in favor of the said McAlister, as administrator of said Gabriel Long?

12. Whether the said McAlister, still being the administrator of said Gabriel Long, did not purchase the same at the sum of one hundred and twenty dollars, on the 23d day of August, 1824?

13. Whether the sheriff of St. Louis county did not, on the 18th day of October, 1824, convey the said tract of land to the said Alexander McAlister, his heirs and assigns?

14. Whether the said Catharine Dodge did not, on the 15th November, 1823, enter with the register and receiver of the land office at St. Louis, Missouri, fractional sections No. 34 and 25, T. 46, R. 7 east, containing 128 $\frac{79}{100}$ acres; and whether said entry did not interfere with the tract conveyed by McNair and wife in the mortgage to Long, and sold by the sheriff to said McAlister; and whether said Catharine did not make said entry for the use and benefit, and at the instance and request of said Alexander McNair?

15. Whether said McAlister, as administrator of said Gabriel Long, did not make the written agreement and receive the conveyance contained in the said instrument mentioned in the bill, as executed by said McNair and Catharine Dodge, whereby said Catharine conveyed to said McAlister, as administrator of said Long, the land entered by her as aforesaid; and whether said conveyance and agreement *was* not procured by said McAlister to fortify and strengthen the title of said Gabriel's heirs in and to the said estate purchased at said sheriff's sale?

16. Whether said McAlister did not, after receiving said conveyance from said Dodge, proceed to sell and purchase said estate at said sheriff's sale, under said foreclosure of mortgage, thereby vesting in himself a trust estate for the heirs of said Long?

17. Whether said McAlister did not, after so vesting said mortgaged premises in himself, in trust for the heirs of the said Gabriel Long, and while he so held the same in trust, enter at the said land office at St.

Louis fractional sections No. 27, 33, and 35, all in township 46, range 7 east; and whether said entries by said McAlister *was* not made Jan'y 5, 1828, and did not said entries interfere with said trust estate?

18. Whether said McAlister and wife did not, on Feb'y 25, 1833, convey, in consideration of twelve hundred dollars, to said O'Fallon said trust estate, so purchased by said McAlister at the said sheriff's sale; and whether said McAlister and wife did not, at the same time and by the same conveyance, transfer to said O'Fallon, also, all interest acquired by Catharine Dodge by her entry, in support of said trust estate so obtained by said McAlister at said sheriff's sale?

19. Whether said O'Fallon did not, at the time of his receiving his said conveyance from said McAlister and wife, or at the time of completing the payment of said purchase-money of twelve hundred dollars, or before either event, have notice that said McAlister had purchased said lands, while he was administrator of said Gabriel Long, at said sheriff's sale?

20. Whether the said McAlister did not fail to render an account of the said sum of one hundred and twenty dollars bid by him at said sheriff's sale, and whether said O'Fallon did not have notice thereof at the receiving of his deed from McAlister and wife, or at the completing of said purchase-money, or before either event?

21. Whether the said O'Fallon and the said McAlister did not agree, previous to the conveyance by said McAlister and wife to said O'Fallon, that the right of said McAlister to sell said land to O'Fallon was questionable, and that the said McAlister would not warrant the title thereof; but that O'Fallon should risk every thing in relation thereto, and adjust, on his own responsibility, all outstanding rights and claims with the heirs of the said Gabriel Long?

22. Whether said McAlister did not fail to account to the estate of Gabriel Long for the said 1200 dollars paid him by O'Fallon, and whether O'Fallon did not pay the said sum of money to the said McAlister in his, McAlister's, own right, and did not have notice at the time of receiving his deed, or at the time of his completing the payment of said 1200 dollars, that said McAlister claimed the said property in his own right, and sold it in his own right?

23. Whether the said O'Fallon has not been in the possession of said premises, and received rents and profits thereof; and how long he has been in possession, and what has been the value of the rents and profits so received by him while in the possession of the said premises?

24. Was not the said O'Fallon aware, before he received the deed from McAlister and wife, that the said Alexander McAlister was the administrator of the said Gabriel Long, deceased?

LOUGHBOROUGH, WRIGHT, & LINN,
Solicitors for the plaintiffs.

Subpœna to Clara V. Long.

Upon the foregoing amended bill the following subpœna issued, viz.:

MISSOURI DISTRICT, *sct.*

The President of the United States, to Clara V. Long, an infant under the age of twenty-one years, greeting:

You are hereby commanded to be and appear at rules to be held at the office of the clerk of the circuit court of the United States for the district of Missouri, on the first Monday of November next, at the city of St. Louis, then and there to answer the amended bill of complaint of Reuben L. Long, John S. Penrise, and Amelia Penrise, his wife, and Alice Penrise, an infant under twenty-one years of age, by John S. Penrise, her guardian and next friend, citizen of the State of California and Mississippi, filed against you on the 22d day of October, 1853. Hereof fail not.

Witness the honorable Roger B. Taney, chief justice of the United States, the 26th day of October, 1853. Issued at office, in [L. S.] the city of St. Louis, under the seal of said court, the day and year last aforesaid.

BEN. F. HICKMAN, *Clerk.*

Memo.—The defendant to enter her appearance in this suit in the clerk's office on or before the day at which the writ is returnable, otherwise the bill may be taken pro confesso.

BEN. F. HICKMAN, *Clerk.*

Marshal's Return.

Upon the foregoing subpœna the marshal made the following return, viz.:

I certify that I executed the within subpœna in chancery by delivering to the within named Clara V. Long a copy of the same, together with a copy of the amended bill filed in said cause, in the city and county of St. Louis, Mo., on this 29th day of October, 1853.

THOMAS S. BRYANT,
Marshal U. S. Mo.
By R. K. MOORE, *Dept.*

Answer of Defendant O'Fallon filed.

Afterwards, at rules begun and held at clerk's office in the city of St. Louis, on the first Monday, being the second day of January, 1854, the following further proceedings were had herein, viz.:

REUBEN L. LONG and others, complainants,
agst.
JOHN O'FALLON and others, defendants. } In chancery.

This day came the defendant, John O'Fallon, by Messrs. Krum & Harding, and files his answer to the bill filed against him in this cause, which said answer is as follows, viz.:

Answer of Defendant O'Fallon.

Circuit Court of the United States for the District of Missouri.

In chancery.

The separate answer of John O'Fallon to the bill of complaint *of complaint* of Reuben L. Long, John S. Penrise and Amelia, his wife, Alice Penrise, by John S. Penrise, her next friend, complainants.

This defendant, now and at all times hereafter, saving and reserving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in said complainants' said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant, answering, saith, in reply to the first interrogatory of complainants, that he has been informed, and believes his information true, that Gabriel Long was married to his wife Elizabeth in the year 1809.

In answer to the second interrogatory of complainants, this defendant says, that he has been informed, and believes his information true, that Gabriel Long departed this life sometime in the month of October, in the year 1822.

In answer to the third interrogatory of complainants, this defendant says, that he has been informed, and believes his information true, that Parks B. Long, Reuben L. Long, Julia Long, Amelia Long, and Alton Long, were children of said Gabriel Long; and all who were living at the time of his death.

In answer to the fourth interrogatory of complainants, this defendant says, that he has heard, and believes his information true, that Parks B. Long died some years since, leaving an only child by the name of Clara V. Long.

In answer to the fifth interrogatory of complainants, this defendant says, that he has been informed, and believes his information true, that Julia Long married John S. Penrise, and that said Julia died several years since, leaving an only child named Alice Penrise.

In answer to the sixth interrogatory of complainants, this defendant says, that he has been informed, and believes his information true, that said Amelia Long married said John S. Penrise.

In answer to the seventh interrogatory of complainants, this defendant says, that said Alton Long did not convey any interest in the tract of land mentioned in the complainants' bill, to John S. Penrise; this defendant does not know, except from the statement in the complainants' bill, that said Alton Long ever made a deed to said John S. Penrise, purporting to convey any right or interest in said tract of land, and this defendant says that he does not admit that such a deed was ever made; but, if there was such a deed made by said Alton Long to said Penrise, this defendant utterly denies that said Alton Long, at the time of making said deed, had any right, title, claim, or interest of any

kind or nature in the said tract of land; consequently, if such a deed was made, it conveyed no right, title, claim, or interest in said tract of land, or any part thereof, to said John S. Penrise.

In answer to the eighth interrogatory in complainants' bill, this defendant admits that Alexander McNair and wife, on or about November, 1820, did execute a mortgage to Gabriel Long, of the tenor and effect mentioned in the complainants' bill.

In answer to the ninth interrogatory in complainants' bill, this defendant says, that he has been informed, and believes his information true, that letters of administration were granted to Alexander McAlister upon the estate of said Gabriel Long, on or about the time mentioned in the complainants' said bill.

In answer to the tenth interrogatory of the complainants, this defendant says, that he admits that Alexander McNair failed to pay the debt specified in said mortgage, and that said Alexander McAllister, as administrator of the estate of said Gabriel Long, instituted proceedings in the circuit court of St. Louis county to foreclose said mortgage, about the time mentioned in said bill, and prosecuted said suit or proceedings to final judgment.

In answer to the eleventh interrogatory of complainants, this defendant says, that he admits that under and in virtue of an execution or special writ of fieri facias issued out of said circuit court, upon said judgment or decree of foreclosure on said mortgage, the sheriff of St. Louis county sold the lands and premises described in said mortgage and in said judgment or decree.

In answer to the twelfth interrogatory of complainants, this defendant admits that at said sale, under said decree or judgment of foreclosure, and the execution sale by the sheriff aforesaid, said Alexander McAllister, on or about the 23d day of August, 1824, purchased the said lands and premises mentioned in said mortgage and in the decree or judgment of foreclosure, for about the sum of one hundred and twenty dollars.

In answer to the thirteenth interrogatory of complainants, this defendant admits that on or about the 18th day of October, A. D. 1824, the sheriff of St. Louis county, in virtue of said judgment and execution, and in pursuance of said sale, made his deed, conveying all the right, title, and interest of said Alexander McNair in and to said mortgaged premises to said Alexander McAllister.

In answer to the fourteenth interrogatory of complainants, this defendant says that Catharine Dodge had a right to a pre-emption to one hundred and twenty-eight $\frac{79}{100}$ acres, being fractional sections No. 34 and No. 26 in township forty-six, range 7 east; and which parcels of land she duly entered at the proper office, on or about the time mentioned in complainants' bill, and for which fractional quarter-sections of land the said Catharine Dodge subsequently, and about the year 182–, obtained a patent or conveyance from the Government of the United States, a copy of which is filed herewith, as an exhibit marked C.

This defendant, further answering said last-mentioned interrogatory, says that he has been informed, and believes his information true, that said fractional sections of land, No. 34 and 26, which said Catharine Dodge purchased from the Government of the United States as aforesaid, did interfere with the said tract or parcel of land mentioned and described in said mortgage made by said McNair to said Gabriel Long, and which was subsequently sold by the sheriff of St. Louis county to Alexander McAllister, as before stated.

This defendant, for further answer to the said last-mentioned interrogatory, says, that he has no knowledge or information, except what he has derived from the complainants' bill, touching the complainants' allegation, that said Catharine Dodge made said entry of said fractional quarter sections of land aforesaid for the use and benefit, and at the instance and request, of Alexander McNair; this defendant, therefore, does not admit, but denies, that the said entry was made by said Catharine for the use and benefit, or at the instance and request, of said McNair; this defendant denies having any knowledge or information (except as aforesaid) upon the subject, and if the said allegation in the complainants' bill, touching the said entry by said Catharine of said one hundred and twenty-eight $\frac{7}{100}$ acres of land, is material to the complainants, this defendant insists that they shall be required to make proof thereof.

In answer to the fifteenth interrogatory of complainants, this defendant says, that he has been informed, and believes his information true, that on or about the 1st day of September, 1824, the said Catharine Dodge, said Alexander McNair, and said Alexander McAllister, entered into an agreement, or covenant in writing, by which said Catharine conveyed the said one hundred and twenty-eight $\frac{7}{100}$ acres of land to said McAllister, which conveyance was in the nature of a mortgage, to secure the payment of certain moneys due from Alexander McNair to the estate of said Gabriel Long, and also to said Alexander McAllister, and in which deed or covenant was an agreement on the part of said McAllister that he would, upon the conditions therein expressed, convey to said Catharine Dodge about 270 arpens of land therein described; or, in case of sale of said lands, the surplus, if any, after paying the said debts due from said McNair to said Gabriel Long's estate, and to said McAllister, should be paid to said Catharine Dodge.

This defendant, further answering said last-mentioned interrogatory, says, that he does not admit, but on the contrary denies, that the complainants have truly stated in their said bill the contents, force, and effect of the said deed or covenant so made and entered into by and between said Catharine Dodge, said Alexander McNair, and said Alexander McAllister; and, in order that the court may undersrand the whole contents of said deed or covenant, this defendant files, with his answer, a duly certified copy of said deed, and makes the same an Exhibit herein, marked A—the original of said deed or covenant is not in the possession, nor under the control of this defendant, nor does he know where the said original now is.

This defendant, further answering said last-mentioned interrogatory, says, that he has no knowledge or information, and, therefore, cannot state whether or not said deed or covenant was procured by said Alexander McAllister to fortify and strengthen the title of the heirs of said Gabriel Long in and to the said estate purchased by said McAllister at said sheriff's sale; therefore this defendant insists that so much and such part of the complainants' bill as the following words in said 15th interrogatory are founded upon, to wit: "Whether said conveyance and agreement was not procured by said McAllister to fortify and strengthen the title of said Gabriel's heirs in and to the said estate purchased at said sheriff's sale?" are material to the complainants, that they shall be required to prove the said part of their said bill.

This defendant, further answering said last-mentioned interrogatory, says, that said Catharine Dodge, on the 10th day of August, A. D. 1828, by her deed of that date conveyed all the right, title, claim and interest which she then had in and to the said fractional sections thirty-four and twenty-six, in township forty-six north, range 7 east, containing one hundred and twenty-eight $\frac{79}{100}$ acres, to said Alexander McAllister, and in and by the same deed the said Catharine Dodge acquitted, released and discharged the said Alexander McAllister, his heirs and assigns, of and from all and singular the covenants made and entered into by said McNair in said deed, dated September 1st, 1824, which is made an Exhibit A aforesaid. The said deed so made by Catharine Dodge was duly acknowledged and recorded in the recorder's office of St. Louis county, in book G, No. 3, page 354, and this defendant files herewith a copy thereof as an exhibit marked B, and will produce the original whenever thereunto required.

In answer to the sixteenth interrogatory of complainants this defendant says, that said McAllister did not purchase the premises mortgaged by McNair to Gabriel Long, after he, said McAllister, received said conveyance from said Catharine Dodge, because the said sheriff's sale of said mortgaged premises to said McAllister took place on the twenty-fourth day of August, A. D. 1824, and the said deed or covenant made by said Dodge and said McAllister, a copy of which is made an exhibit A to this answer, bears date on the first day of September, A. D. 1824.

This defendant, further answering said sixteenth interrogatory, denies that said deed or covenant, made Exhibit A, or the said sheriff's sale and deed to said McAllister, vested in him a trust estate for the heirs of said Gabriel Long.

In answer to the seventeenth interrogatory of said complainants this defendant admits, that said Alexander McAllister, sometime prior to the 10th day of June, A. D. 1828, entered certain lands designated as fractional sections No. 27, 33, and 35, all in township 46, range 7 east, but the precise date of said entry this defendant does not know; this defendant says, however, that a patent or deed of conveyance was made by the Government of the United States to said McAllister, dated June 10th, 1828, a copy of which patent is made an exhibit to this answer, marked G, and the original will be produced whenever required.

This defendant, further answering said seventeenth interrogatory, says, that while he admits that said McAllister entered the said fractional quarter sections of land as aforesaid, this defendant does not admit, but denies, that said McAllister was vested with the said lands in trust for the heirs of said Gabriel Long; and inasmuch as this defendant does not know that there was any such trust estate, he does not know or admit that said entries interfered therewith.

In answer to the eighteenth interrogatory of complainants this defendant says, that on or about the 25th day of February, A. D. 1833, the said Alexander McAllister, and Elizabeth his wife, by their quit-claim deed of that date, in consideration of $1,200, conveyed to this defendant the following described tract or parcel of land situate in St. Louis county, to wit: "All that tract of land lying on or near the river Gingrass, in said county, being three arpens in front by forty arpens more or less in depth, forming a superficies of one hundred and twenty arpens more or less, and bounded on the southeast by the tract of said John O'Fallon, which he purchased of John McKnight; on the southwest by lands of the late Henry E. Dever; on the northwest by land now claimed by said Alexander McAllister, and in litigation between him and John Mullanphy; and on the northeast by the Mississippi river;" as will appear by a copy of said deed filed herewith as an exhibit marked D, the original of which will be produced whenever required. The said tract or parcel of land described in said last mentioned deed includes in its description the parcel of land claimed by the complainants in their said bill.

This defendant, further answering said eighteenth interrogatory, says, that said deed last mentioned conveyed to him such right and interest in the said last above described tract or parcel of land as said McAllister then had in the same, to wit, a fee-simple estate; and this defendant purchased the same of him in good faith, and for a valuable consideration, supposing and believing at the time that said land described in said deed belonged to said Alexander McAllister in his own right, wholly unconnected with any trust, either expressed or implied, whatsoever.

In answer to the nineteenth interrogatory of complainants this defendant says, that he knew at the time said McAllister made said last mentioned deed that he was administrator of Gabriel Long's estate at the time he purchased said mortgaged premises at said sheriff's sale.

In answer to the twentieth interrogatory of complainants this defendant says, that he does not know, and has no information, whether said McAllister failed to render any account of the said sum of one hundred and twenty dollars by him at said sheriff's sale.

This defendant, further answering said interrogatory, says, that he never had any concern or knowledge about said McAllister's accounts as administrator of the estate of Gabriel Long. At the time this defendant received his said deed from McAllister, marked D, this defendant had not notice that said McAllister had failed to account for said $120; this defendant did not then know that he had so failed, nor does he

now know it; and whether said McAllister failed to account for said sum of money or not is no concern of this defendant, and he does not admit that said McAllister failed to account for said money; and if the fact whether he did fail to account for said $120 is material to the plaintiff's case, this defendant insists that they shall be required to make proof thereof.

In answer to the twenty-first interrogatory of complainants this defendant says, that there never was any agreement or understanding between said McAllister and this defendant previous to the making of his said conveyance, to the effect that the right of said McAllister to sell said land was questionable; that he would not warrant the title thereof, but that this defendant should risk everything in relation thereto, and adjust, on his own responsibility, all outstanding rights and claims with the heirs of said Gabriel Long. This defendant denies that any such agreement or understanding was ever made or had by him with the said McAllister or any one else in respect to said real estate conveyed by him to this defendant. But, on the contrary thereof, this defendant says, that when he purchased said real estate described in the two deeds made by said McAllister to this defendant—one in August, 1828, and the other in February, 1833—and paid the consideration expressed in said two deeds to said McAllister, this defendant had never heard the title of said McAllister or his right to sell said real estate questioned; said McAllister always claimed and treated it as his own, and in his own right. If this defendant has had any notice or intimation from any one that said McAllister's title or right to sell said real estate was questioned or questionable, or that he held or claimed it only in trust for other parties, and not in his own individual right, this defendant would not have purchased said real estate or had anything to do with it, and certainly this defendant would not have paid the consideration for said real estate that he did if the title thereto or right to sell had been questioned or questionable; for the said price or consideration paid for said real estate to said McAllister by this defendant was equal to the cash value thereof at that time.

In answer to the twenty-second interrogatory of complainants this defendant says, that he makes the same answer in respect to said $1,200 that he has made in this answer to the twentieth interrogatory of complainants respecting said McAllister's accounts as administrator of the estate of Gabriel Long, deceased; this defendant has no knowledge or information on that subject.

This defendant, further answering said twenty-second interrogatory, says, that he always understood and believed at the time he purchased said real estate of McAllister specified in his said two deeds before mentioned, and also at the time this defendant paid him the consideration money therefor, that he, the said McAllister, claimed said real estate in his own right, sold it as his own, and of course received the said consideration money as his own.

In answer to the twenty-third interrogatory of complainants this defendant says, that he went into possession of the land that said

McAllister conveyed to him as aforesaid, prior to the year A. D. 1830, and has occupied and possessed the same ever since, quietly and unmolested by any one; and this defendant says, that he went into possession of said land a short time before the year A. D. 1830, as aforesaid, under his claim of title, and has occupied and possessed the same ever since, and now occupies and possesses the same, under his said claim of title.

This defendant says, in further answer to said last-mentioned interrogatory, that he has used a part of the said premises since about the year 1830 for cultivation and pasturage as a farm, and that the income or profits of the tract, or portion of land claimed by the complainants, after paying all necessary expenditures each year for working said farm, and paying for the useful, necessary, and permanent improvements made by this defendant thereon, and the annual taxes, amount to nothing; in fact the making of said useful, necessary, and permanent improvements on said premises, and the expense of working said premises as a farm, and paying said taxes, greatly exceed all the income that this defendant has ever received from the crops and pasturage off said premises; this defendant says, that he made the said useful, permanent, and lasting improvements on said premises in good faith, believing that he had a good and indefeasible title thereto.

In answer to the twenty-fourth interrogatory of complainants this defendant says, that he knew that said Alexander McAllister was administrator of the estate of Gabriel Long, at the time he made said deed, exhibit D, to this defendant.

This defendant having answered the several interrogatories propounded to him, and annexed to the complainants' said bill, he now proceeds to answer more specifically so much, and such parts of the complainants' said bill, as he is advised is or are material and necessary to make answer unto: Answering saith, that he denies the allegation in the complainants' bill, that said McAllister became, in fact and in law, a trustee for the heirs of said Long, and held the said estate purchased in trust for them, by reason of the foreclosure of said mortgage and sale to him of said mortgage premises, he being at the time administrator of said Gabriel Long's estate.

This defendant further answering says, that he denies the statement in complainants' bill, viz: "that the deed of conveyance executed by Catharine Dodge to secure debts due to McAllister and the estate of Long enured to the benefit of the heirs of said Long in law and equity."

This defendant, further answering, denies the statement in complainants' bill, viz: "that the entry made by said Alexander McAllister, of fractional sections numbered twenty-seven, thirty-three, and thirty-five aforesaid, enured in law and equity to the heirs of Gabriel Long, dec.;" and this defendant denies that said McAllister was trustee of the heirs of said Gabriel Long at the time said entries were made.

This defendant denies the statement in complainants' bill, viz: "that the effect of said conveyance and said entry was to fortify the trust estate which McAllister held for the said heirs."

This defendant, further answering, denies the statement in complainants' bill, viz: "that the said John O'Fallon (this defendant) was a purchaser with notice, in fact and in law, that he (this defendant) was receiving a trust estate from the hands of McAllister, and that the sale made by McAllister and wife to him was fraudulent, in law and in fact, and was so known to be by him;" this statement in said bill, in all of its particulars, this defendant emphatically denies.

This defendant, further answering, denies the statement in said bill, viz: "that said O'Fallon (this defendant) became, by virtue of the conveyance from McAllister and wife to him, a trustee for the heirs of said Gabriel Long."

This defendant, further answering, denies the statement in the complainants' bill, that, upon the face of the instrument, viz: the deed or conveyance made by Catharine Dodge to McAllister, notice is given to this defendant that the said conveyance operated as a deed of trust for the benefit of the heirs of Gabriel Long.

This defendant, further answering, denies that, before or at the time said McAllister conveyed said premises to this defendant, he, this defendant, had any knowledge or information of any fraudulent intent on the part of said McAllister in making said conveyance; nor has this defendant at any time since known, or been informed, of any such fraudulent intent.

This defendant, further answering, denies so much and such part of the complainants' bill as charges, viz: "that said McAllister, knowing himself to be a trustee for the heirs of Gabriel Long, deceased, and wishing to fortify his title by the purchase of all outstanding claims, procured and entered into an agreement with said Catharine and said Alexander McNair, by which he might be enabled to extinguish any claim, real or pretended, of the said Catharine Dodge, and thereby confirm the title of said heirs of Gabriel Long." This statement this defendant denies.

This defendant, further answering, denies so much and such part of said bill as charges in substance, that said McAllister, after his purchase at said sheriff's sale, and after the making of said deed by Catharine Dodge, he, the said McAllister, with the frandulent intention of appropriating to his own use the land and premises in controversy, procured the register and receiver of the land office located in St. Louis to permit him to enter the said fractional sections No. 27, 33, and 35; such entries were made, but not with any fraudulent design or intent.

This defendant further answering says, that on or about the 21st day of February, in the year 1809, the board of commissioners for the adjustment of land titles for the district of Missouri confirmed to the widow and representatives of Antoine Morine a tract of six hundred and forty arpens of land, as will appear by a copy of the act of confirmation of said commissioners, filed herewith as an exhibit, marked E; and which said tract, so confirmed to said widow and representatives of said Morine, was supposed, at the time, to include the whole of the tract or parcel claimed by complainants in their bill.

This defendant further answering says, that after said confirmation was made, as aforesaid, but before said Alexander McNair made his said mortgage to Gabriel Long, and before the death of the latter, to wit, in the year A. D. 1817, an official survey of said 640 arpens was made by the Government of the United States; a copy of which survey is made an exhibit filed herewith, marked F, and which survey was duly returned and approved.

This defendant further answering says, that in making said survey it was ascertained that there was a surplus; that is to say, a quantity of land was found embraced within the descriptive calls of the Morine grant, which exceeded the quantity of 640 arpens, confirmed as aforesaid; and the surveyor general and officers of the United States, in conformity with the usage and practice in such cases, and with the assent of said Alexander McNair, (who then claimed the whole of said Morine grant and confirmation,) made said survey in such manner that said surplus was thrown off on the south side of said confirmation, and the quantity thus thrown off was equal to about 160 arpens.

This defendant further answering says, that it was a part of this surplus quantity of land, (and which then was government land, and belonged to the United States,) that said Catharine Dodge entered, in virtue of her said pre-emption right; that is to say, the said Catharine Dodge entered, as before stated, fractional quarter sections No. 34 and 26, in town. 46 N., R. 7 E., making together about $128\frac{79}{100}$ acres of said surplus, and which $128\frac{79}{100}$ are *are* the same that the complainants in their bill charge that said Dodge entered at the instance and request and for the use of said McNair.

This defendant further answering says, that subsequent to the making of said entry by said Dodge, and about the time stated in complainants' bill, said Alexander McAllister entered, at the proper office, fractional sections 27, 33 and 35, in town. 46 north, range 7 east; and on the 10th day of June, 1828, the Government of the United States, in pursuance of the laws of said government, issued a patent to him for said fractional quarter sections; a copy of which patent is filed herewith as an exhibit, marked G, as before stated, and which fractional quarter sections of land, aforesaid, were a part of said surplus which had been thrown off on the south side of said Morine grant, as before stated.

This defendant further answering says, that on or about the 26th of January, 1820, the said Alexander McNair and Elizabeth, his wife, made their certain mortgage upon the said tract of land, confirmed to said widow and representatives of said Antoine Morine, to John Mullanphy, to secure a certain debt mentioned in said mortgage; and for a more particular description of the premises included and described in said mortgage, as well as the said debt, this defendant refers to and files herewith a copy of said mortgage, as an exhibit, marked H, the original not being in the possession or under the control of this defendant.

This defendant further answering says, that on or about the 18th day of August, 1823, said John Mullanphy instituted a suit in the circuit court in and for the county of St. Louis, upon the said debt or ob-

ligation of said McNair, described in said mortgage; and such proceedings were had in said suit in said court, that said Mullanphy recovered judgment therein on or about July 2, 1824, against said McNair, for the sum of $, as will more fully appear by the record and proceedings in said suit in said court, still remaining, and which will be produced if required.

This defendant further answering says, that said Mullanphy afterwards took execution on said judgment, directed to the sheriff of St. Louis county, and returnable to the October term, 1824, of said court; and under and in virtue of said execution, the said sheriff levied upon the premises mentioned and described in the said last-mentioned mortgage; and said sheriff, in virtue of said execution, and in pursuance of the laws in such cases provided, advertised and sold said premises in due course of law, on the 6th day of October, 1824; and at said sale, said John Mullanphy was the highest and best bidder, and the same was struck off to him, and he became the purchaser thereof; and afterwards, on the 16th day of October, 1824, the said sheriff made and executed his sheriff's deed to said John Mullanphy, conveying to him all the right, title, claim, interest and estate of said McNair in and to said mortgaged premises; a copy of said sheriff's deed is filed herewith, as an exhibit, marked I, the original not being in the possession or under the control of this defendant.

This defendant further answering says, that said Elizabeth, the widow of said Gabriel Long, and mother of complainants, after the death of said Gabriel, intermarried with said Alexander McAllister, and after his death she intermarried with Abel Rathbon Corbin, and she is still living. The said Elizabeth, after the death of said Gabriel Long, relinquished her right or claim to dower in the lands which said Alexander McAllister conveyed to this defendant by his two deeds—one in 1828, and the other in 1833—as will appear by her deed, filed herewith as an exhibit, marked D, as aforesaid.

This defendant further answering says, that Reuben L. Long and Alton Long, two of the said children of said Gabriel Long, were upwards of forty-one years of age at the time of the filing and exhibiting of complainant's bill in this suit.

This defendant further answering says, that he has been in the continuous possession in good faith under his claim of said title of the premises claimed by the complainants in their said bill, for twenty years and upwards, next before this bill was filed; and this defendant sets up his said continuous possession of said premises for more than twenty years, as a bar to the complainants' claim; and this defendant prays that he may be protected in his possession, right, and title in and to the premises in question against the unjust demand of the complainants.

And this defendant denies all and all manner of unlawful combination and confederacy and fraudulent acts, wherewith he is by the said bill charged, without this, that there is any other matter, cause, or thing in the said bill contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently

answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of this defendant. All which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and asks to be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

J. O'FALLON.
KRUM & HARDING, & TRUSTEEN POLK,
Sol's for Def't, John O'Fallon.

DISTRICT OF MISSOURI, *ss:*

John O'Fallon being duly sworn says, that he has heard the foregoing answer read, and knows the contents thereof, and the same is true of his own knowledge, except as to those matters and statements therein which are stated on information and belief, and as to those matters and statements he believes them to be true.

J. O'FALLON.

Subscribed and sworn to before me, this 31st day of December, 1853.
BEN. F. HICKMAN,
Clerk Ct. Ct. U. S. Mo. Dist.

Amendment to bill filed.—John Young appointed guardian ad litem for Clara V. Long.

Afterwards, at the April term, 1854, of our said court, on May 16th, 1854, the following further proceedings were had herein, viz.:

REUBEN L. LONG, &c., complainants,
agst.
JOHN O'FALLON, defendant.
} In chancery.

This day come the complainants, by their solicitor, and on motion and with leave of the court, file an amendment to their bill in this cause; and on the further motion of said solicitor, it is ordered, that John Young be appointed guardian ad litem to defend for Clara V. Long, an infant, defendant in this cause.

Amendment to Bill.

The amendment above mentioned is as follows, viz.:

REUBEN L. LONG & others, plffs.,
vs.
JOHN O'FALLON, deft.

In Circuit Court of U. States, Dist. Mo., April T., 1854.

The plffs. move the court for leave to amend by inserting on the 8th page of their amended bill, and immediately after the letter A, the following, viz.: "In order still further to perfect the title to said lands in said McAlister, as trustee for the heirs of said Long, he, McAllister, on 10th August, 1828, for the consideration of one dollar, procured from

said Catharine Dodge a full release and quit-claim of all her right or title to fractional sections 34 and 26, in township 46 N., range 7 E. aforesaid."

WRIGHT, LOUGHBOROUGH & LINN,
For Plaintiffs.

Acceptance of John Young to act as guardian ad litem of Clara V. Long.

On the 3d of July, 1854, the following acceptance of John Young to act as guardian ad litem of Clara V. Long was filed herein, viz.:

REUBEN L. LONG & others, plaintiffs,
vs.
JOHN O'FALLON & CLARA V. LONG, defendants.

In Circuit Court of U. States, Dist. of Missouri.

I, John Young, of the city and county of St. Louis, and the State of Missouri, do hereby accept the appointment conferred on me by the court as guardian ad litem of the infant defendant, Clara V. Long, in the above entitled cause, and hereby undertake to discharge the duties of such guardian ad litem.

June 15th, A. D. 1854. JNO. YOUNG.

Answer and cross-bill of Clara V. Long filed, and answer of John O'Fallon to said cross-bill filed.

Afterwards at rules begun and held at the clerk's office in the city of St. Louis, on the first Monday, being the 3d day of July, 1854, the following further proceedings were had herein, viz.:

REUBEN L. LONG, &c., complainants,
agst.
JOHN O'FALLON, &c., defendants.
In chancery.

This day come the parties, by their solicitors, and John Young having accepted the appointment of guardian ad litem for defendant, Clara V. Long, as such guardian, now files the answer of said Clara V. Long to the complainants' bill, and also files her cross-bill against her co-defendant, John O'Fallon; to which cross-bill the said defendant, O'Fallon, files his answer.

The answer and cross-bill of said Clara V. Long are as follows, viz.:

Answer and Cross-bill of Clara V. Long.

REUBEN L. LONG and others, plaintiffs,
vs.
JOHN O'FALLON, CLARA V. LONG, defendants.

In Circuit Court of the United States, Dist. of Mo.

The defendant, Clara V. Long, by her guardian ad litem, John Young, in answer to the plaintiffs' bill in this cause, says, that the state-

ments and allegations in the said bill are in all respects just and true, as she is informed and believes, but that she has no knowledge of her own in relation thereto; she does here now adopt and re-assert all the said allegations and statements in manner and form as made by the plaintiffs. She prays that this her answer may be taken and considered as a cross-bill against the said plaintiffs and the said John O'Fallon, and that they may answer the same, that on the final hearing of this cause, if the plaintiffs, or any of them, shall show that they are entitled to a decree in their favor, that she may also have a decree in her favor for her proportionate part of the property in dispute; she prays that the said plaintiffs and John O'Fallon may by proper process herein be compelled to answer this her cross-bill; and as in duty bound he will ever pray.

JOHN YOUNG.

John *Long*, guardian ad litem for the said Clara Long, on his oath states that the matters and things contained in the foregoing answer, which are stated upon his own knowledge, are true, and those matters and charges stated upon the information of others he believes to be true.

JOHN YOUNG.

Sworn to and subscribed before me, this 26th day of June, 1854, as witness my hand and notaral seal, at office, St. Louis.

JOHN DECKER, *Notary Public.*

The answer of John O'Fallon to the foregoing cross-bill is as follows, viz.:

Answer of Jno. O'Fallon to Cross-bill of Clara V. Long.

REUBEN L. LONG & others, complainants,
vs.
JOHN O'FALLON & CLARA V. LONG, deft's.

IN CIRCUIT COURT U. STATES.

For answer to the cross-bill of Clara V. Long, co-defendant in the above entitled cause, John O'Fallon says that he adopts the statements and allegations in his answer to the original bill of complainants, and asks that his said answer, in every particular, may be taken and considered as his answer to the cross-bill of his said co-defendant, the same as if repeated here. And this defendant, John O'Fallon, denies that his said co-defend , or said complainants, or either of them, are entitled to the relief prayed, or to any other relief in the premises; and he prays to be hence discharged, with his costs, &c.

KRUM & HARDING,
T. POLK,
Sol. for def't O'Fallon.

Afterwards, at rules begun and held at the clerk's office, in the city of St. Louis, on the first Monday, being the 7th day of August, 1854, the following further proceedings were had herein, viz:

Replication of compl'ts & of def't, Clara V. Long, to O'Fallon's ans'rs filed.

REUBEN L. LONG, &c., complainants,
ag'st
JOHN O'FALLON, &c., defendants. } In chancery.

This day come the complainants, by their solicitor, and file their replication to the answer of the defendant, O'Fallon; and the said defendant, Clara V. Long, by her guardian, files her replication to the answer of John O'Fallon, filed to her cross-bill against him.

The replication of the complainants above mentioned is as follows, viz:

Replication of Complainants to O'Fallon's answer.

REUBEN L. LONG & others, pl'ffs,
vs.
JOHN O'FALLON & CLARA V. LONG, def'ts.

IN CIR. COURT OF U. STATES,
Dist. of Mo.

The plaintiffs, for replication to the answer of John O'Fallon, say that the matters and things in said plaintiffs' bill contained and set forth are just and true, in manner and form as therein shown, and that the matters and things in the said answer of said O'Fallon are neither just nor true; and this the plaintiffs are ready to verify, when and where this honorable court shall order and award, &c.

GLOVER & RICHARDSON,
for the pl'ffs.

The replication of Clara V. Long to O'Fallon's answer to her cross-bill is as follows, viz:

Replication of Clara V. Long to O'Fallon's answer to her cross-bill.

REUBEN LONG & others
vs.
JOHN O'FALLON & al.

IN CIR. COURT OF U. STATES,
Dist. Mo.

The said Clara V. Long, by her guardian ad litem, John Young, for replication to the answer of John O'Fallon to her cross-bill says, that the matters and things in her cross-bill are just and true in all respects, and that the matters and things in the said answer of John O'Fallon are not just or true, but false; and this the plaintiff, the said Clara, is ready to verify in such manner as this honorable court may order and award, &c.

CLARA V. LONG,
By her guardian, John Young,
By GLOVER & RICHARDSON.

Afterwards, at the October term, 1854, of our said court, on Thursday, October 5th, 1854, the following further proceedings were had herein, viz:

Agreement postponing time of taking testimony filed.

REUBEN L. LONG, &c., complainants,
ag'st
JOHN O'FALLON, &c., defendants. } In chancery.

This day comes the complainants, by their solicitor, and presents to the court an agreement in writing, signed by the solicitors for complainants and defendants, agreeing that the time for taking testimony in this cause be extended for three months from the 4th of October, 1854, which is ordered to be filed. Said agreement is as follows, viz:

Agreem't extending time for taking testimony.

REUBEN LONG & al.
vs.
JOHN O'FALLON, &c.

IN CIR. COURT U. STATES, *Dist. Mo.*

By consent the time for taking testimony in this cause is extended three months from this day, Octo. 4, 1854.

GLOVER & RICHARDSON, *for pl'ffs.*
KRUM & HARDING,
for def't O'Fallon.

Afterwards, at the April term, 1855, of our said court, on 17th April, 1855, the following further proceedings were had herein, viz:

Hearing of cause progressed.

REUBEN L. LONG, &c., complainants,
ag'st
JOHN O'FALLON, defendant. } In chancery.

This day come the parties by their solicitors, and by consent this cause is now set down for hearing, and thereupon the hearing of said cause, upon bill, amended bill, answers, exhibits, and proofs, was commenced; but not being concluded at the hour of adjournment, the further hearing of same is continued until to-morrow morning.

Hearing progressed.

APRIL 18th, 1855.

REUBEN L. LONG, &c., complainants,
ag'st
JOHN O'FALLON, defendant. } In chancery.

This day come again the parties by their solicitors, and the hearing of the cause was resumed; but not being concluded at the hour of adjournment, the further hearing of same is continued until to-morrow morning.

Hearing concluded & submitted for decree.

APRIL 19, 1855.

REUBEN L. LONG, &c., complainants,
ag'st
JOHN O'FALLON, defendant. } In chancery.

This day come again the parties by their solicitors, and the hearing of this cause was concluded and submitted to the court for a decree.

Decree dismissing bill.

APRIL 20th, 1855.

REUBEN L. LONG, &c., complainants,
ag'st
JOHN O'FALLON, defendant. } In chancery.

This day come again the parties by their solicitors, and this cause having been submitted to the court for a decree upon the bill, amended bill, answer, replication, exhibits, and proofs, and the court being fully advised in the premises, do now finally order, adjudge, and decree, that the bill of the said complainants be, and the same is hereby dismissed; and do further order, adjudge, and decree, that the complainants pay to the defendant the costs by him about his defence in this behalf expended, and that execution issue therefor.

Complainants' evidence.

REUBEN L. LONG & others, pl'ffs,
vs.
JOHN O'FALLON & others, def'ts.

IN THE CIR. COURT OF U. STATES, *Dist. Mo.*

The evidence on the trial of this cause, on part of the plaintiffs, was the following, viz:

1. The certificate of confirmation to the widow & representatives of Antoine Morin, (Exhibit E of O'Fallon's answer.)

Certificate of confirmation to widow & representatives of Antoine Morin.

TUESDAY, *February* 21st, 1809.

Board met. Present, John B. C. Lucas, Clement B. Penrose, and Frederick Bates, commissioners.

The claim of the widow and representatives of Antoine Morin being taken up by the board, and a vote taken thereon, the board confirm to the widow and representatives of Antoine Morin 640 arpens, and order that the said be surveyed as nearly conformable as may be to a survey of 656 arpens certified the 10th January, 1800, and found on record, in book C, page 429, of the recorder's office, deducting the

surplus from the western part thereof. Survey to be made at the expense of claimants.

RECORDER'S OFFICE, SAINT LOUIS.
March 23d, 1827.

A true copy from book No. 3, page 485, of proceedings of the board of commissioners on file in my office.

THEODORE HUNT,
R. L. Titles in the State of Missouri.

Spanish Survey of Morin Tract.

2. Spanish Survey and Translation of the Antoine Morin Tract.

SURVEY.

Don Gabriel Cerré. Domino Real.

[For plat, see original, p. 37.]

Joseph Morin.

Don Antonio Soulard, agrimensor de los establicimientos de la Luisiana, alta: Certifico que el 15 de Nov'bre, del año ultimo pasado, (en virtud del decreto que antecede del S'or Don Zenon Trudeau, ten'te de gob'or de estos estable'os occidentales de Illinois,) me he transferido a la tierra de Antonio Morin padre, para tomar en ella las medidas de ag'ura arregladas a su pedimento de 16 arp's de cara, sobre 40 de profundidad, ô de 656 arp's de superficié; cuyas medidas se han tomado en presencia del proprietario, y de los vecinos linderos con la medida de Paris de 18 pies de largo segun constumbre adoplada en esta provincia de la Luisiana, y sin to car a lo que puede dar de si la variacion de la abuja, que es de 7 g's y 30 mo. E. como consta del plano figurativo que antecede cuya tierra se halla situada 7 mo. al S. E. de esta villa de San Luis, lindando como se que, al S. O. con las tierras Valdias del Dominio Real, al N. E. por el Rio Mississippi, y por el del N. O. con tierra de Joseph Morin bijo, y por el lado del S. O. con las tierras del Dom'o Real y el de D'n Gabriel Cerré; y para que conste donde combenga le doy el presente con el plano figurativo que precede en el qual se indican las dimenciones y limites naturales y artificiales de dicha tierra.

(Signed) ANTONIO SOULARD,
Gr'or past'r.

San Luis de Illinois, 10 de Enero, de 1800.

NOTA.—1. Majoues y terminos de la linea de D'n Gab'l Cerré.
2. Term'o limitrofes con el interesado y su vecino lindero.
3. Terminos de piedras.

Nº 111- page 87-

Survey

Don Gabriel Cerré

Joseph Morin

4. Majoues p'ne y todos cimentados con ascoria de fragua. Los arboles de las limites estan seña lados. Lib'o A, fo. 12 y 13, No. 59.

See Record book C, pages 428 and 429.

RECORDER'S OFFICE, SAINT LOUIS,
14*th April*, 1855.

I certify that the foregoing is correctly transcribed from pages 428 and 429 of Record book C, in this office.

ADOLPH RENARD,
U. S. Recorder of Land Titles in Missouri.

Translation of the foregoing.

Translation of the foregoing.

I, Antoine Soulard, surveyor general of the settlements of Upper Louisiana, do certify, that on the 15th of November last, (in virtue of the foregoing decree of the lieutenant governor, Zeno Trudeau, or lieut. governor of these western settlements of Illinois,) I went to the land of Antoine Morin, senior, to admeasure and survey the same, according his demand, for 16 arpens front by 40 arpens in depth, or 656 superficial arpens; which survey was executed in the presence of the owner and of the adjoining neighbors, with the perch of Paris, of 18 feet in length, conformably to the custom adopted in this province of Louisiana, and regardless of the variation of the needle, which is 7 degrees and 30 minutes east, as appears from the foregoing figurative plat. Said land is situated at Truiles, S. E. of this town of Saint Louis, bounded as follows, to wit: S. W. by the vacant lands of the royal domain; N. E. by the River Mississippi; N. W. by the land of Joseph Morin, junior, and S. E. by the vacant lands of the royal domain and the land of Gabriel Cerré. And, in order to make the whole available, I give the present certificate with the foregoing plat, on which are indicated the artificial dimensions and the limits of said land.

(Signed) ANTOINE SOULARD,
Sur. Gen'l.

St. Louis of Illinois, 10th January, 1800.

NOTE 1.—Corners and stakes of the land of Gabriel Cerré. 2. Corners, common to the proprietor and his neighbors. 3. Stone corners. 4. Stakes, all rammed in with drop of iron. The line trees are blazed. Book A, folios 12 and 13, No. 59.

ST. LOUIS, *April* 14, 1855.

I have correctly translated the above.

ADOLPH RENARD.

United States Survey—Morin Tract.

4. American Survey of A. Morin Tract.

[For plat, see original, p. 39.]

No. 1. Extracts from survey No. 672, for Antoine Morin's representatives, of 640 arpens, equal to 544 $\frac{44}{100}$ acres: Beginning at his lower corner on the river, which is marked A on the above plat, and which is "a sycamore 8 inches diameter; from it a walnut 10 inches diameter bears S. 9° E., 17 links; thence S. 55° W., 24 chains, section corner on the east bank of creek, 6 chains 22 links north of corner to sections 26, 27, 34, and 35, in township 46 north, range 7 east; 128 chains and 70 links set post, the S. W. corner from which an ash 4 inches diameter bears S. 19° W., 40 links, and a w. o. 18 inches in diameter bears N. 50° W., 105 links." ("Note.—From the S. W. corner of A. Morin's above-named tract S. 35° E., 10 chains to the stone, corner on Clamorgan's tract, which was formerly the S. W. corner of Morin's tract; and from Morin's lower corner on the river as at present established, run down the river S. 40° E., 10 chains to the former lower corner of Morin and upper corner of Cerré.") ("Note.—This space of 10 chains wide was thrown off as an excess from Morin's tract, and is claimed in right of pre-emption by Col. A. McNair, the present proprietor of Morine's tract.")

No. 2. Extract from survey No. 458, for Jacque Clamorgan, claiming under Joseph Brazeau 400 arpens, equal 340 $\frac{88}{100}$ acres: Beginning at B, where "set post on former south boundary of Morin's tract, from which a cotton-wood 3 inches in diameter bears S. 60° W., 108 links; thence with the old south boundary of Morin's tract S. 55° W., 43 chains and 20 links a stone, the old S. W. corner of Morin's survey; thence N. 35 W., 10 chains, Morin's present S. W. corner."

No. 3. Extract from survey No. 2034, for Clement B. Penrose, claiming in right of Gabriel Cerré 98 arpens, equal 83 $\frac{86}{100}$ acres: Beginning at C, his upper corner, on Gin Gras creek, which is a stone on the west of the creek, and corner also to claimant's 400 arpens tract;" thence with the several courses of the survey "to post the upper corner of this survey and low one of Morin's representatives on the Mississippi," (marked D on foregoing plat,) "from which," &c.; "thence along Morin's south boundary S. 55 W., 27 chains a creek; 27 chains and 50 links a stone, the beginning."

No. 4. Extract from survey No. 2041, for Clement B. Penrose in right of Gabriel Cerré, for 400½ arpens, equal to 340 $\frac{70}{100}$ acres: Beginning at corner marked B on foregoing plat, and which is "a stake 43 ch's 20 links east of Brazeau's, his corner, from which a cotton-wood 3 inches diameter bears S. 60 W., 108 links; thence N. 55 E., 8 chains 10 links to the beginning," marked C on plat, and which is

a stone on the west of Gin Gras creek; a copy from the field-notes of the lines between sections 34 and 35, 26 and 35, 26 and 27, 27 and 34, township 46, range 7 east: 1st. North, between sections 34 and 35, township 46 north, range 7 east, from a post in Penrise's line 97 chains 66 links east of his corner, from which a locust 24 inches diameter bears S. 55 W., 60 links; 6 chains post in mound on west of creek and corner to sections 26, 27, 34, and 35, township 46 north, range 7 east. 2nd. East, between sections 26 and 36, township 46 north, range 7 east, 1 chain and 60 links; a creek 60 links bears S. 23 E.; 8 chains 57 links set a post in Penrise's line. 3rd. North, between sections 26 and 27, township 46 north, range 7 east, 4 chains a creek; 6 chains and 22 links corner in Morin's line, 24 chains west'd of corner on river, an ash 6 inches diameter; from it a hickory 10 inches diameter bears S. 80 E., 15 links. 4th. West, between sections 27 and 34, township 46 north, range 7 east, 8 chains and 88 links set post in mound on Morin's line. 5th. North, between sections 33 and 34, from a stone a corner of Clamorgan's survey under Brazeau, 12 chains and 22 links set a post in Morin's line; 7 chains east'd of his most southern corner, a p. oak 14 inches diameter bears N. 25 W. 32 links, and a hickory 18 inches diameter bears N. 43 W., 32 links.

SURVEYOR'S OFFICE, ST. LOUIS, *26th March*, 1828.

The foregoing and within extracts, numbered 1 to 4, are respectively and truly taken from the field-notes of surveys, viz: No. 672, for Antoine Morin's representatives; No. 458, for Jacques Clamorgan under Joseph Brazeau; No. 2034, for Clement B. Penrise claiming in right of Gabriel Cerré; and No. 2041, for Clement B. Penrise, also in right of Gabriel Cerré. And the above copy of the field-notes of the lines between sections 34 and 35, 26 and 35, 26 and 27, 27 and 34, and 33 and 34, township 46 north, range 7 east, has been compared with the originals on file in this office, and found correct.

W. McREE, *Surv'r of Pub. L'ds.*

5. 2 connected plots of A. Morin tract with adjoinings urveys, (Exhibit F of O'Fallon's answer.)

Survey No. 672.

Township 46 north, range 7 east.

[For plat, see original, p. 41.]

No. 672.—Surveyed for Antoine Morin's representatives, claiming 640 arpens, equal to $544\frac{4}{10}\frac{4}{0}$ acres: Beginning at his N. W. corner, thence N. 55 E., 83 chains, left prairie, bears S. E., 114 chains, creek 50 links wide bears south; 129 ch's 53 links, set post for his upper corner on the bank of the Mississippi, from which a hackberry 14 inches

diameter bears S. 55 W., 20 links, and a sycamore 30 inches diameter bears N. 35 W., 23 links; thence down the river S. 20 E., 7 chains, S. 28 E., 10 chains, S. 29 E., 2 chains, S. 27 E., 4 chains, S. 32 E., 7 chains, S. 28½ E., 7 chains, S. 35½ E., 3 chains, S. 37 E., 6 chains, S. 35 E., 4 chains, S. 34 E., 4 chains, S. 40 E., 2 chains, a sycamore 8 inches diameter, the lower corner on the river, from it a walnut 10 inches diameter bears S. 9 E., 17 links; thence S. 55 W., 24 chains, sectional corner on east bank of creek 6 chains 22 links north of corner to sections 26, 27, 34 and 35, in township 46 north, range 7 east, 128 chains 70 links set a post, the S. W. corner from which an ash 4 inches diameter bears S. 19 W., 40 links, and a w. oak 18 inches diameter bears N. 50 W., 105 links; thence N. 35 W., 43 chains, to the beginning corner a stone.

(Signed) JOS. C. BROWN, *D. S.*

November, 1817.

SURVEYOR'S OFFICE, ST. LOUIS,
27th November, 1827.

The foregoing is a correct copy of the survey on record in this office in book B, page 221, and is conformable to the original field-notes with this exception, that the last three courses of the meanders of the river in this copy and the record (viz: S. 35 E., 4.00 chains, S. 34 E., 4.00 chains, S. 40 E., 2.00 chains) are erased in the original, and the following note is appended to the original, viz:

"From the S. W. corner of A. Morin's above-named tract, S. 35 E., 10 chains, to the stone corner on Clamorgan's tract, which was formerly the S. W. corner of Morin's tract, and from Morin's lower corner on the river, as at present established, run down the river S. 40 E., 10 chains to the former lower corner of Morin and upper corner of Cerré."

"NOTE.—This space of 10 chains was thrown off as an excess from Morin's tract, and is claimed in right of pre-emption by Col. A. McNair, the present proprietor of Morin's tract."

J. C. B., *D. S.*

W. MCREE, *Surv. of Pub. L'ds in Ill's, Misso., and Ark's.*

Survey No. 672, *and connections.*

T. 46 N., R. 7 E., of 5th P. M.

[For plat, see original, p. 42.]

OFFICE OF THE SURVEYOR GENERAL,
ST. LOUIS, *April 13th*, 1855.

I certify that the above plat of survey No. 672, and its connections with the adjoining surveys, is correctly copied from the plat of town-

Mississippi River

No 1849
Thomas Stephens Entry
600 acres = 10.42 acres

No 672
Thomas Stephens Entry
640 acres

No 1848
Thomas Stephens Entry
640 acres

No 1847
Thomas Stephens Entry
640 acres

No 1846
Thomas Stephens Entry
640 acres

No 1845
Thomas Stephens Entry
640 acres

No 1844
Thomas Stephens Entry
640 acres

No

ship 46 north of the base line, range 7 east of the 5th principal meridian, on file in this office.

JNO. LOUGHBOROUGH,
Surveyor General.

Mortgage from A. McNair and wife to Gabriel Long.

6. Mortgage of A. McNair and wife to Gabriel Long.

This deed, made this twenty-fifth day of November, in the year of our Lord one thousand eight hundred and twenty, between Alexander McNair, of the town of St. Louis, in the county of St. Louis and State of Missouri, and Margaret S. McNair, his wife, of the first part, and Gabriel Long, of Bonhomme township, in the county and State aforesaid, of the second part, witnesseth: That the said Alexander McNair, and Margaret S. McNair, his wife, for and in consideration of two thousand dollars to them in hand paid by the said Gabriel Long, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said Gabriel Long, his heirs and assigns forever, all of that certain tract of land situate, lying and being in the township of St. Louis, in the county of St. Louis, and State of Missouri, on or near the river Gingrass, being three arpens in front by forty in depth, forming a superficies of one hundred and twenty arpens, more or less, fronting on the river Mississippi, and bounded southerly by land formerly owned by Clement B. Penrose, northwardly by the land of Joseph Morin, and westwardly by land, the land now or formerly owned by Joseph Brazeau being the same land purchased by the said Alexander McNair of Elijah Smith, as will appear by the deed of the said Elijah to the said Alexander McNair, bearing date the seventh day of September, in the year one thousand eight hundred and twelve, and is the same land which was purchased by the said Elijah Smith of Pelagie Peletier, alias Pelagie Morin, Michael Morin, Vertoine Morin, and Joseph Morin, as will appear by this deed to him, dated the twenty-sixth day of October, one thousand eight hundred and nine; together with all and singular the rights, privileges, and appurtenances thereunto belonging, or in anywise appertaining; to have and to hold the said above described, bargained, and sold premises unto him, the said Gabriel Long, his heirs and assigns forever, and to the sole and only proper use and behoof of him, the said Gabriel Long, his heirs and assigns forever: Provided always, and these presents are upon this express condition, that if the said Alexander McNair, his heirs, executors, administrators, or assigns, shall well and truly pay, or cause to be paid, unto the said Gabriel Long, his executors, administrators, or assigns, the just and full sum of one thousand eight hundred and eighty-nine dollars within one year from the date hereof, with interest, at the rate of ten per cent. per annum, according to a certain promissory note executed by the said Alexander McNair to the said Gabriel Long, as collateral security to these presents, bearing even date herewith, then these

presents, and the said promissory note, are to cease and to become null and void, anything herein contained to the contrary notwithstanding.

In witness whereof the said Alexander McNair and Margaret S. McNair have hereunto set their hands and seals, the day, year first above written.

A. McNAIR, [SEAL.]
MARG'T S. McNAIR. [SEAL.]

Signed, sealed and delivered, in presence of us—

STATE OF MISSOURI,
County of St. Louis.

Be it remembered, that on this twenty-fifth day of December, one thousand eight hundred and twenty, before me, Patrick Walsh, one of the justices of the peace in and for the county of St. Louis aforesaid, came Alexander McNair and Margaret S. McNair, the grantors above named, and severally acknowledged the foregoing instrument to be their free act and deed, for the purposes therein contained; and the said Margaret, on examination separate and apart from her husband, acknowledged that she executed the said deed freely and voluntarily, without any fear or compulsion of her said husband.

P. WALSH,
A Justice of the Peace. [SEAL.]

Recorded this 28th day of December, 1820.

ARCHIBALD GAMBLE,
Clerk.

STATE OF MISSOURI,
St. Louis county.

I, the undersigned recorder for said county, certify that the foregoing is a full and complete copy of an instrument of writing, and of the certificate of acknowledgment and date of filing and recording thereof, as fully as the same remains of record in my office, in book K, page 10 and following.

[L. S.] Witness my hand and official seal, this 14th day of April, 1855.

C. KEEMLE,
Recorder.

Patent to Catharine Dodge.

7. Patent to Catharine Dodge.

The United States of America, to all to whom these presents shall come, greeting:

Certificate No. 688.

Whereas, Catharine Dodge, of St. Louis, has deposited in the General Land Office of the United States a certificate of the register of the

land office at St. Louis, in Missouri, whereby it appears that full payment has been made by the said Catharine Dodge, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for fractional sections thirty-four and twenty-six, in township forty-six, (north,) of range seven, (east,) in the district of St. Louis, and State of Missouri, containing one hundred and twenty-eight acres and seventy-nine hundredths of an acre, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Catharine Dodge:

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said Catharine Dodge, and to her heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the said Catharine Dodge, and to her heirs and assigns forever.

In testimony whereof, I, James Monroe, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

[L. S.] Given under my hand, at the city of Washington, the twenty-third day of March, in the year of our Lord one thousand eight hundred and twenty-four, and of the independence of the United States the forty-eighth.

By the President: J. M.

Recorded, Vol. 1, page 125. G. G.
Com. of the Gen. Land Office.

GENERAL LAND OFFICE, *January* 13, 1854.

In accordance with the seventh section of the act of Congress approved the 4th of July, 1836, entitled "An act to re-organize the General Land Office," and with the act of Congress approved the 3d day of March, 1843, entitled "An act in relation to the exemplifications of the record of land patents, and other evidences of title, and amendatory of the act entitled 'An act to re-organize the General Land Office,'" I, John Wilson, Commissioner of the General Land Office, do hereby certify, that the annexed is a true and literal exemplification from the patent records of this office. The record of the patent in this case, of which the annexed is a literal exemplification, as aforesaid, was omitted to be signed, as required by law, as appears from the record of the same in this office; but the 1st section of the act of March 3d, 1843, above referred to, provides that "where such exemplifications are adduced in evidence, they shall be deemed and held to be of the same validity in all proceedings, whether at law or in

equity, as if the names of the officers signing and countersigning the same had been fully inserted in such record.

In testimony whereof, I have hereunto subscribed my name, [L. S.] and caused the seal of this office to be affixed, at the city of Washington, on the day and year first above written.

JOHN WILSON,
Com. of the Gen. Land Office.

Sheriff's deed to McAllister on foreclosure of Long's mortgage.

8. Sheriff's deed to McAllister on foreclosure of Long's mortgage.

To all to whom these presents shall come, I, John K. Walker, sheriff of the county of St. Louis, in the State of Missouri, send greeting: Whereas, a certain order of sale issued from the clerk's office of the circuit court within and for the county of St. Louis, returnable to the October term of said court, in the year of our Lord one thousand eight hundred and twenty-four, pursuant to a decree of said court, the petition of Alexander McAllister, administrator of Gabriel Long, deceased, to purchase mortgage against Alexander McNair and Margaret S. McNair, his wife, and the said order of sale being directed to the sheriff of the county of St Louis, and to me the said sheriff delivered a copy, whereof is hereunto annexed, and makes a part and parcel of this deed, by virtue of which said order of sale, I, the said sheriff, on the tenth day of July, one thousand eight hundred and twenty-four, did advertise the mortgaged premises described and set forth in the petition of the said Alexander McAllister, administrator as aforesaid, to wit: a certain tract or piece of land situate, lying, and being in the county of St. Louis, and about three miles in a northwardly direction from the city of St. Louis, containing three arpens in front on the Mississippi, by forty arpens deep, forming a superficies of one hundred and twenty arpens, be the same more or less, and bounded on the east by the Mississippi river; southwardly by land heretofore owned by Clement B. Penrose; northwardly by land of Joseph Morin, and westwardly by land now or formerly owned by Joseph Penrise; and is the same tract of land acquired by the said Alexander McNair, of one Elijah Smith, by deed bearing date September the seventh, one thousand eight hundred and twelve; and the same having been advertised as the law directs, by affixing six advertisements or hand-bills in the most public places in different parts of my county, at least twenty days before I exposed the same to sale, a copy of which said advertisement is hereunto annexed, and which, also, makes a part and parcel of this deed; by virtue of which said order of sale and advertisement, I did, on the twenty-third day of August, in the year one thousand eight hundred and twenty-four, agreeably to the advertisement thereof, at the court-house door, during the sitting of the county court of St. Louis county, expose to public sale for ready cash all the right, title, claim, interest, estate and property of the said Alexander McNair and Margaret S., his wife, of, in, and to the above described property, together with all and singular the buildings, improvements,

rights, privileges, and appurtenances thereunto belonging; and Alexander McAllister, of the county of St. Louis, being the highest and last bidder for the same, at the price and sum of one hundred and twenty dollars, the same was stricken off, and sold to him, the said Alexander McAllister.

Now, therefore, know ye, that I, John K. Walker, sheriff as aforesaid, for and in consideration of the sum of one hundred and twenty dollars to me in hand paid by the said Alexander McAllister, the receipt whereof I do hereby acknowledge, and by virtue of the authority in me vested by law, I do hereby transfer and assign to him, the said Alexander McAllister, all the right, title, interest, estate and property of them, the said Alexander McNair and Margaret S., his wife, of, in, and to the above mentioned and described property, that I might sell, agreeably to law, as sheriff aforesaid, by virtue of the aforesaid order of sale and advertisement; to have and to hold the same to him, the said Alexander McAllister, and to his heirs and assigns forever.

In witness whereof, I, John K. Walker, sheriff of the county of St. Louis, have hereunto set my hand and seal this eighteenth day of October, in the year of our Lord one thousand eight hundred and twenty-four, and *and* of the independence of the United States of America the forty-ninth.

JOHN K. WALKER,
Sheriff. [SEAL.]

COUNTY OF ST. LOUIS, *sct:*

The State of Missouri, to the Sheriff of St. Louis county, greeting:

Whereas, at our circuit court, before our judge thereof, at the October term, in the year eighteen hundred and twenty-three, Alexander McAllister, adm'r of Gabriel Long, recovered against Alexander McNair and Margaret S., his wife, the sum of two thousand two hundred and fifty-eight dollars and sixteen cents, being the principal and interest in the petition mentioned, together with legal interest on the sum of eighteen hundred and eighty-nine dollars, from that date, and also his costs and charges by him about his petition in that behalf expended; and it was also considered that if the said Alexander McNair and Margaret S., his wife, did not well and truly pay and satisfy Alexander McAllister, admr. of Gabriel Long, decd., or his legal representatives, the debt, interest, and costs aforesaid, on or before the fourth Monday in Augus tnext, then the sheriff of St. Louis county was required and commanded to sell, on the said fourth Monday of August, the mortgaged premises in the petition mentioned, to pay and satisfy the debt, interest, and costs aforesaid; all which appears to us of record. These are therefore to command you, that unless the said Alexander McNair and Margaret S., his wife, shall well and truly pay and satisfy to the said Alexander McAllister, admr. of Gabriel Long, decd., or his legal representatives, the debt, interest, and costs aforesaid, on or before the said fourth Monday of August next, you cause to be sold the said

mortgaged premises, to pay and satisfy the debt, interest, and costs aforesaid, and that you have the same before the judge of our said court, at the next term thereof, to be held at the city of St. Louis, within and for the county of St. Louis, on the first Monday in October next, then and there to render unto the said Alexander McAllister, admr. of Gabriel Long, deceased, the debt, interest, and costs aforesaid; and that you certify to our said judge how you execute this writ.

Witness Archibald Gamble, clerk of our said court, at office, this ninth day of July, in the year of our Lord one thousand eight hundred and twenty-four.

[L. S.]

ARCHIBALD GAMBLE, *Clerk.*

The above is a true copy of the order of sale.

JOHN K. WALKER, *Sheriff.*

Sheriff's Sale.

In obedience to an order of sale to me directed, from the circuit court, in favor of Gabriel Long's adm'r, against Alexander McNair and wife, I will sell for cash to the highest bidder, at the court-house door, in St. Louis, on Monday, the 23d day of August next, between the hours of 9 and 4, the mortgaged premises mentioned in the petition of said plaintiff, to wit: A tract of land situated about 3 miles north of St. Louis, on the waters of Gingrass, containing 3 arpens front on the Mississippi by forty arpens deep, forming a superficies of 120 arpens, (more or less,) bounded east by the Mississippi, south by land heretofore owned by C. B. Penrose, north by land of Joseph Morine, and west by land of Joseph Brazeau, and is the same tract of land acquired by said McNair of Elijah Smith, by deed bearing date Sept. 7, 1812.

JOHN K. WALKER, *Sheriff.*

St. Louis, July 10, 1824.

The above is a true copy of the advertisement.

JOHN K. WALKER, *Sheriff.*

STATE OF MISSOURI,
County of St. Louis, ss:

Be it remembered, that on the twenty-first day of October, in the year 1824, John K. Walker, sheriff for St. Louis county, personally appeared in open court, and acknowledged the execution of the within deed to Alexander McAllister, which said acknowledgment is entered of record of that day.

Given under my hand and seal of office, December 18, 1824.

[SEAL.]

ARCHIBALD GAMBLE, *Clerk.*

Recorded, December 18, 1824.

ARCHIBALD GAMBLE, *Clerk.*

STATE OF MISSOURI,
County of St. Louis, ss:

I, the undersigned recorder for said county, certify that the foregoing is a true copy of an instrument of writing and of the certificate of ac-

knowledgment, and also of the date of recording thereof, as fully as the same remains of record in my office, in book M, page 185, and foll.

[L. S.] Witness my hand and official seal, this the 14th day of April, 1855.

C. KEEMLE, *Recorder.*

Mrs. Dodge's, McNair and McAllister's Agreement and Mortgage.

9. Mrs. Dodge's, McNair and McAlister's Agreement and Mortgage.

This indenture, made the first day of September, in the year of our Lord one thousand eight hundred and twenty-four, by and between Catharine Dodge, of the city of St. Louis, in the county of St. Louis and State of Missouri, of the first part; Alexander McNair, of the same place, of the second part; and Alexander McAllister, of the county and State aforesaid, of the third part: Whereas, the said Alexander McAllister, administrator of all and singular the goods and chattels, rights and credits, which were of Gabriel Long, late of the county aforesaid, deceased, by the decree of the circuit court of the county of St. Louis, on the foreclosure of a certain mortgage, executed by the said Alexander McNair and Margaret, his wife, on certain property in said mortgage mentioned, recovered against the said Alexander McNair and his said wife a sum of two thousand two hundred and fifty-eight dollars and sixteen cents, forming, together with the interest on the same and two other items or judgments still remaining unsatisfied and unpaid, a claim of the said Alexander McAllister against the said Alexander McNair, amounting to the sum of two thousand six hundred and fifty dollars.

Now, this indenture witnesseth, that the said Catharine Dodge, the said party of the said first part, for and in consideration of the premises, and in order the further to secure to the said Alexander McAllister the payment, at the time and in the manner hereinafter mentioned, of the said sum of two thousand six hundred and fifty dollars, to wit: on the first day of September, in the year eighteen hundred and twenty-five, a sum of six hundred and fifty dollars, together with such lawful interest as shall then have accrued on the gross sum, the payment whereof is hereby intended to be secured; on the first day of September, which will be in the year eighteen hundred and twenty-six, all the lawful interest as shall then have accrued on the remaining balance of two thousand dollars; and on the first day of September, which will be in the year eighteen hundred and twenty-seven, the said sum of two thousand dollars, together with such other and further interest as shall have accrued on the same up to that date—hath this day granted, bargained, aliened, enfeoffed, sold and conveyed, as by these presents she doth grant, bargain, alien, enfeoff, sell and convey unto the said Alexander McAllister, his heirs and assigns, all that certain piece or parcel of land situate, lying and being in the county of St. Louis, in the State aforesaid, being fractional sections thirty-four and twenty-six in town-

ship forty-six, (north,) of range seven, (east,) containing the quantity of one hundred and twenty-eight acres and seventy-nine hundredths of an acre, the same granted to the said Catharine Dodge and her heirs, by patent from the President of the United States, issued on certificate No. 688, and bearing date the twenty-third (23d) day of March, eighteen hundred and twenty-four: To have and to hold the above granted, bargained, aliened, enfeoffed, sold and conveyed premises, with the appurtenances, unto the said Alexander McAllister, his heirs and assigns, forever. And the said Catharine Dodge, the said party of the said first part, for herself, her heirs, executors and administrators, doth hereby covenant and agree, to and with the said Alexander McAllister, his heirs, executors, and administrators and assigns, that she, the said Catharine Dodge, on the day of the date hereof, is lawfully seized and possessed, in fee simple, of the premises aforesaid, with the appurtenances, and hath good right, full power and authority, to sell and dispose of the same; and further, that she the premises aforesaid, with the appurtenances, against the claim or claims of all and every person claiming the same, by, through or under her, will forever warrant and defend by these presents. And the said Alexander McNair, for himself, his heirs, executors and administrators, doth hereby covenant and agree, to and with the said Alexander McAllister, his executors, administrators and assigns, that he the said Alexander McNair, his heirs, executors and administrators, shall and will well and truly pay, or cause to be paid, unto the said Alexander McAllister, his executors, administrators and assigns, the said sum of two thousand six hundred and fifty dollars, with the lawful interest on the same, at the times and in the manner above limited for the payment thereof, according to the true intent and meaning of these presents; and further, that he, the said Alexander McNair, his heirs, executors and administrators, during the period above stated, shall not cut down, destroy or waste, or cause the same to be done, any of the timber growing or standing on the tract of land above described, or on the land and *and* premises heretofore mortgaged by the said Alexander McNair and wife to Gabriel Long, deceased, other than what is or shall be necessary for the repair and keeping in order of the last above described premises, and the use of those living on or occupying the same.

And it is hereby agreed by and between the said Alexander McAllister and the said Alexander McNair, the second and third parties to these presents, that in the mean time and until default shall be made of and in payment of the said sum of two thousand six hundred and fifty dollars, and interest on the same at the times and in manner as aforesaid, or some part thereof, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said Alexander McNair, his heirs and assigns, peaceably and quietly to have, hold, use, occupy, and possess and enjoy the said premises, with their appurtenances, and receive the rents, issues, and profits thereof, to his and their own use and benefit, without any the lawful hindrance, interrup-

tion, suit, or disturbance of or by the said Alexander McAllister, his heirs or assigns, or any other person or persons whatsoever lawfully claiming by, from, or under him, them, or any of them: Provided, however, that the said Alexander McNair, his heirs, executors, and administrators, shall and will, from time to time, and at all times during the said term hereby granted, well and truly pay or cause to be paid all rates, taxes, duties, charges, and assessments whatsoever that shall or may be assessed, charged, rated, or imposed on the premises aforesaid, or any part thereof; and thereof and therefrom save harmless and keep indemnified the said Alexander McAllister, his heirs and assigns. And the said Alexander McAllister, for himself, his heirs, executors, administrators, or assigns, doth hereby covenant and agree to and with the said Alexander McNair, his heirs, executors, and administrators, that upon the full payment, satisfaction, and discharge of the said sum of two thousand six hundred and fifty dollars, with the interest (lawful) thereon, at the time and in manner as aforesaid, and also of all taxes and assessments as aforesaid by the said Alexander McNair, his heirs, executors, and administrators, he, the said Alexander McAllister, his executors and administrators, shall and will at any time after, when the reasonable request and at the proper costs and charges of the said Alexander McNair, his heirs, executors, and administrators, deliver up to the said Catharine Dodge, her heirs, executors, or administrators, this indenture to be cancelled, or made void, or otherwise re-assign or re-convey all the estate, right, title, and interest of him, the said Alexander McAlister, his executors, administrators, and assigns, of, in, and to the said hereby granted, bargained, and sold premises, unto the said Catharine Dodge, her heirs, executors, and administrators, or to any other person or persons as she or they, or any, or either of them, shall, by writing, under her or their hand and seal, direct and appoint, and also shall and will re-assign and convey to the said Alexander McNair, his heirs, executors, and administrators, in manner aforesaid, the piece or parcel of land designated and described in the deed of mortgage, executed by the said Alexander McNair and wife to the above named Gabriel Long, freed and discharged from all encumbrances done and committed by the said Alexander McAllister, his executors, administrators, or assigns, the whole in due form of law; and in case of the failure of the said Alexander, his heirs, executors, or administrators, to make the payments of the said sum of two thousand six hundred and fifty dollars, with interest as aforesaid, at the times and in the manner above stated, it shall and may be lawful for the said Alexander McAllister, his heirs, executors, and administrators, to sell and dispose of the property last above mentioned to the best advantage, and apply the proceeds of said sale to the payment and satisfaction of the said sum of two thousand six hundred and fifty dollars, and interest thereon, or such sum or sums as may then remain due and unpaid in the same, and account to the said Alexander McNair, his heirs, executors, or administrators, for such balance as shall or may remain in his hands of the pro-

ceeds of such sale, after the payment of the said debt and interest as aforesaid.

In testimony whereof, the parties to these presents have hereunto set their hands and seals, the day and year first above mentioned.

CATHARINE DODGE, [SEAL.]
A. McNAIR, [SEAL.]
ALEXANDER McALLISTER. [SEAL.]

Signed, sealed, and delivered in the presence of—
J. V. GARNIER.

STATE OF MISSOURI, *County of St. Louis, ss:*

Personally appeared before the subscriber, a justice of the peace within and for the county of St. Louis, Catharine Dodge, Alexander McNair, and Alexander McAllister, all well known to me, who acknowledged the foregoing instrument of writing to be their act and deed for the purposes therein mentioned.

Given under my hand this fifth day of August, 1825.

J. V. GARNIER, *J. P.* [SEAL.]

Recorded 5th September, 1825.

ARCHIBALD GAMBLE, *Recorder.*

STATE OF MISSOURI, *County of St. Louis, ss:*

I, the undersigned, recorder in and for the county of St. Louis, do hereby certify the foregoing to be a full and complete copy of a deed from Catharine Dodge and Alexander McNair to Alexander McAllister; as also of the certificate of acknowledgment, and of the date of recording thereof, as fully as the same remains of record in my office, in book M, pages 371 and foll.

[SEAL.] Witness my hand and official seal, this 30th day of December, 1853.

S. D. BARLOW, *Recorder.*

Mrs. Dodge's release to McAllister.

10. Mrs. Dodge's release to McAllister.

This indenture, made and concluded this tenth day of August, in the year of our Lord eighteen hundred and twenty-eight, between Catharine Dodge, of the county of St. Louis, State of Missouri, of the one part, and Alexander McAllister, of the same county and State, of the other part, witnesseth: That whereas the said Catharine Dodge, by deed bearing date the first day of September, in the year of our Lord one thousand eight hundred and twenty-four, recorded in the office of *the office of* the recorder of St. Louis county, page 371 and following of book M, did convey to said Alexander McAllister, his heirs and assigns, forever, a certain tract or parcel of land situate, lying, and being in the county and State aforesaid, being fractional sections thirty-four and twenty six, in township forty-six north, range seven east,

containing one hundred and twenty-eight $\frac{79}{100}$ acres, which conveyance was made to secure the payment of a large sum of money due and owing by Alexander McNair to the said Alexander McAllister as administrator of Gabriel Long, deceased, upon which payment being made, said Alexander McAllister was bound to reconvey said tract of land to said Catharine Dodge, and, in default of said payment he the said McAllister was authorized and empowered to sell said land; all of which will more fully and at large appear by reference to said deed, recorded as aforesaid. And the said Alexander McNair not having paid the said sum of money in the said deed mentioned, and the same being still due and unpaid, the said Catharine Dodge hath agreed to relinquish unto the said Alexander all her right in law or equity in and to said tract of land, and every part thereof, with the appurtenances. Now the said Catharine Dodge, in consideration of the premises, and also in consideration of the sum of one dollar to her in hand paid by the said Alexander McAllister, the receipt whereof is hereby acknowledged, hath granted, relinquished, released, aliened, and confirmed, and by these presents doth grant, relinquish, release, alien, and confirm unto the said Alexander McAllister, his heirs, and assigns, all the right, title, claim, and interest of her, the said Catharine, of, in, and to the tract of land aforesaid, with the appurtenances, and particularly any and all right and claim which I might or could have to redeem the said tract of land; and the said Catharine Dodge hath moreover acquitted, released, and discharged, and by these presents doth acquit, release, the said Alexander McAllister, his heirs and assigns, of and from all and singular the covenants in said receted deed on his and their part to be performed. To have and to hold the above described tract and parcel of land, with the appurtenances, unto the said Alexander McAllister, his heirs and assigns, forever, free, clear, and discharged of all conditions, reservations, covenants, and of all equity or right of redemption in the said receted deed contained, or intended to be secured, to all intents and purposes, as *of* the said recited deed had been absolute.

In testimony whereof the said Catharine Dodge hath hereunto set her hand and affixed her seal, the day and year first above mentioned.

CATHARINE DODGE. [SEAL.]

Signed, sealed, and delivered in presence of—
F. C. GARNIER.

Patent to McAllister.

11. Patent to McAllister.

Certificate No. 1521.

The United States of America, to all to whom these presents shall come, greeting:

Whereas Alexander McAllister, of St. Louis county, Missouri, has deposited in the General Land Office of the United States a certificate of the register of the land office at St. Louis, whereby it appears that full

payment has been made by the Alexander McAllister, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the fractional sections twenty-seven, thirty-three, and thirty-five, in township forty-six north, of range seven east, in the district of lands offered for sale at St. Louis, Missouri, containing eight acres and eighty-three hundredths of an acre, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Alexander McAlister.

Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Alexander McAllister, and to his heirs, the said tract above described; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Alexander McAlister, and to his heirs and assigns, forever.

In testimony whereof, I, John Quincy Adams, President of the United States of America, have caused these letters to be [L. S.] made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the tenth day of June, in the year of our Lord one thousand eight hundred and twenty-eight, and of the independence of the United States the fifty-second.

J. Q. ADAMS.

By the President:

G. W. GRAHAM,
Commissioner of the General Land Office.

McAllister and wife—Deed to O'Fallon.

12. McAllister and wife to O'Fallon.

This deed, made and concluded this twenty-fifth day of February, in the year of our Lord eighteen hundred and thirty-three, between Alexander McAllister and Elizabeth, his wife, of the county of St. Louis, and State of Missouri, of the one part, and John O'Fallon, of the county and State aforesaid, of the other part, witnesseth: That the said Alexander McAllister and Elizabeth, his wife, for and in consideration of the sum of twelve hundred dollars to the said Alexander in hand paid at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, and quit-claimed, and by these presents do grant, bargain, sell, and quit-claim unto John O'Fallon, his heirs and assigns, forever, all and singular the right, title, claim, and interest of them, the said Alexander and Elizabeth, his wife, of, in, and to all that tract of land lying on or near the river Gingras in said county, being three arpens in front by forty arpens more or less in depth, forming a superficies of one

hundred and twenty arpens, more or less, and bounded on the southeast by the tract of said John O'Fallon, which he purchased of John McNight; on the southwest by land of the late Henry E. Dever; on the northwest by land now claimed by said Alexander McAlister, and in litigation between him and John Mullanphy; and on the northeast by the Mississippi river; to have and to hold the above described tract of land, with all and singular the appurtenances, unto the said John O'Fallon, his heirs and assigns, forever, without any recourse whatever on the said Alexander McAlister for any defect or want of title, as derived from either Alexander McNair and wife, or Mrs. Catharine Dodge, it being the express understanding of the parties hereto; and the deed is intended to convey only such title as the said Alexander now has in the premises, without any covenant or warranty whatever.

In testimony whereof, the said Alexander McAlister and Elizabeth have hereunto set their hands and affixed their seals, the day and year first aforesaid.

A. McALISTER, [L. S.]
ELIZABETH McALISTER. [L. S.]

Signed, sealed and delivered in the presence of—
PETER FERGUSON.

Alton Long—Deed to Penrise.

13. Alton Long to Penrise.

This deed, made this tenth day of November, eighteen hundred and fifty-two, by and between Alton Long, of the county of St. Louis, State of Missouri, of the first part, and John S. Penrise, of the county of Washington *county*, State of Mississippi, of the second part, witnesseth: That the said party of the first part, in consideration of one thousand dollars to him in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, does, by these presents, bargain, sell and convey, and confirm unto said party of the second part, all his right, title and interest, as one of the heirs *at lagal* representatives of Gabriel Long, deceased, in and to a certain tract of land containing one hundred and twenty arpens, more or less, fronting on the Mississippi river, through which the river Gingras runs; which said land was conveyed by a deed of mortgage to the said Gabriel Long, from Alexander McNair, dated the 25th day of November, 1820; and is described in said mortgage as being bounded east by the Mississippi river, southerly by the land of Joseph Chovin, and westwardly by the land then or formerly owned by Joseph Brazeau; and which said mortgage was duly foreclosed on the 23d day of October, 1823, by a decree of the circuit court of St. Louis county, whereby the legal and equitable title to said land became and was vested in the said Gabriel Long: to have and to hold the same, with all the rights and immunities, privileges hereunto belonging, and to his heirs and assigns forever.

In testimony whereof, I, the said party of the first part, have hereunto set my hand and seal, this day and year first aforesaid.

ALTON LONG. [SEAL.]

STATE OF MISSOURI,
County of St. Louis, ss:

Be it remembered, that Alton Long, who is personally known to the undersigned, a notary public within and for the county and State aforesaid, to be the person whose name is subscribed to the within deed as a party thereto, this day appeared before me and acknowledged that he executed the same as his act and deed, for the uses and purposes therein contained.

[L. S.] Given under my hand and official seal, this 10th day of November, A. D. 1852.

DAVID C. TUTTLE,
Notary Public.

STATE OF MISSOURI,
St. Louis county.

I, the undersigned recorder for said county, certify that the foregoing instrument of writing was filed for record in my office November 15th, 1852, and is truly recorded in book L, page 307.

[L. S.] Witness my hand and official seal the date aforesaid.

S. D. BARLOW,
Recorder.

Stipulation of Solicitors, marked X.

14. Stipulation of Solicitors, marked X.

LONG & others
vs.
O'FALLON.

IN THE CIR. COURT U. STATES.

It is admitted in this case that Catharine Dodge was the aunt of Mrs. McNair, wife of Alexander McNair. It is admitted that in the inventory of Alexander McAllister, filed by him as adm'r of Gabriel Long, dec'd, in the county court of St. Louis county, said McAllister charged himself with the following debts as due to said Long's estate from Alexander McNair, viz: note on McNair, $1,889.00, drawing 10 per cent.; note on McNair, $100; debt on McNair, $340; in all, $2,329. That in the settlement of said McAllister, as such administrator, in said court, at the Feb'y T., 1828, he was credited by the same amounts charged against him in inventory, the same being desperate as he stated in said settlement.

It is admitted that the following were all the children of Gabriel Long, dec'd, and they were born as follows: Reuben L. Long, Jan. 29, 1810; Alton Long, December 11, 1811; Parks B. Long, July 17, 1815; Mary E. Long, born April 13, 1817, and died October 8, 1818; Julia R. Long, born December 21, 1819; Amelia E., born Sept. 2, 1821.

It is admitted that the adjournments mentioned in the bill, in relation to the sheriff's sale on the order of court foreclosing the mortgage of

Long's adm'r vs. McNair, are shown by the record of proceedings in that behalf. Either party may put in evidence any deed, or survey, or plat, that they may deem necessary, at any time before the case is submitted to the court for its decision; and also the defendant may put in evidence the sworn statement of John K. Walker as to the possession of the defendant of the premises in question.

It is admitted, that Mrs. Long, wife of Gabriel Long, after his death married Alexander McAllister, and after his death she married Abel Rathbone Corbin, and she is still living.

GLOVER, WRIGHT, LOUGHBOROUGH,
for pl'ffs.
KRUM & POLK,
for O'Fallon.

Copy of the Family Record of the Births of the Children of Gabriel and Elizabeth Long.

"Reuben Lewis Long was born Jan. the 29th, 1810; Alton Long was born Dec. the 11th, 1811; Parks Bacon Long was born July the 17th, 1815; Mary Elizabeth Long was born April the 13th, 1817; Julia Randolph Long was born Dec. the 21st, 1819; Amelia Elizabeth Long was born Sept. the 2d, 1821."

These are the children of Gabriel Long and Elizabeth Lewis, who were married June the 25th, 1807. Mary E. Long departed this life on the 8th of October, A. D. 1818. Gabriel Long departed this life on the 18th October, A. D. 1822. We admit, without further proof, that the above named persons are all the heirs, and the names and ages of the above named children of Gabriel and Elizabeth Long.

Feb'y 10, 1855. KRUM & HARDING.
T. POLK,
for John O'Fallon.

Proceedings of the Board ascertaining the grant to Cerré to be a perfect title—B'k No. 1, 392—Land claimed by Joseph Brown, assignee to C. B. Penrose.

15. Proceedings of the Board ascertaining the grant to Cerré of 400½ to be a perfect title.

MONDAY, *November 21st*, 1808.

Board met. Present, the hon'ble John B. C. Lucas, Clement B. Penrose, and Frederick Bates.

The hon'ble Clement B. Penrose retired from the Board.

Clement B. Penrose, assignee of Joseph Browne and wife, assignee of the representatives of Gabriel Cerré, deceased, claiming 400½ arpens of land situate on the river Gingras, district of St. Louis, produces to the board a certificate from Charles Trudeau, royal surveyor of Louisiana, by which it appears that 400½ arpens of land, in superficie, has been measured by Antoine Soulard, surveyor particular, for Gabriel Cerré, the 20th February, 1797, in pursuance of an order from the

lieutenant governor, dated 3d January, same year; also a plat and certificate of the same, to which is annexed a patent from Manuel Gayoso de Lomos, governor general of Louisiana, to Gabriel Cerré, bearing date the 17th August, 1798, and is found in the "abstract of all the concessions and patented grants of land appertaining to the district of Louisiana, recorded in the registers kept by the Spanish and French governments of the province of Louisiana since the 2d of July, 1756, until the 23d April, 1802," transmitted to this board by the secretary of the treasury. Claimant also produces a certified copy of an act of public sale of the effects and property of Gabriel Cerré, by which it appears Joseph Browne purchased said land, dated 28th July, 1805; and a deed of conveyance from Joseph Browne and wife to claimant, dated 8th October, 1807.

This title is ascertained by the board to be a grant made and completed.

Bk. No. 1, 393.—Same assignee of same, claiming 98 arpens, be the same more or less, situated as aforesaid, produces to the board a deed of conveyance from Joseph Browne and wife, dated 8th October, 1807.

Louis Braseau, sworn, says that he knows the land claimed, and that it was fifteen or sixteen years ago reputed to be the property of Gabriel Cerré; and that said Cerré cut his wood from said land from that time to his death. Laid over for decision.

Board adjourned.

JOHN B. C. LUCAS,
FREDERICK BATES.

See Minutes of Board, pages 360, 361, and 362, of book No. 3.

OFFICE OF THE RECORDER OF LAND TITLES,
ST. LOUIS, 16 *April*, 1855.

I certify, that the foregoing is correctly transcribed from the minutes on file in this office of the proceedings of the board of commissioners appointed in pursuance of the 5th section of the act of 2 March, 1805, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the district of Louisiana."

ADOLPH RENARD,
U. S. Recorder of Land Titles in the State of Missouri.

Confirmation by Bates of the 98 *arps. to Cerré.*

16. Confirmation by Bates of the 98 arpens to Cerré.

No. 175. OFFICE OF THE RECORDER OF LAND TITLES,
ST. LOUIS, *November* 1*st*, 1822.

It is hereby certified, that pursuant to acts of Congress respecting claims to lands in the Territories of Orleans and Louisiana, and Territory of Missouri, the claim of Clement B. Penrose, under Gabriel Cerré, for the quantity of ninety-eight arpens, has been duly confirmed; and that on the day of November, 1817, the said tract was regu-

larly surveyed, containing eighty-three acres and thirty-six hundredths of an acre, as per plat herewith, authenticated by the United States surveyor's office, and designated on the connected plat as No. 2034. Now, therefore, be it known, that the said Clement B. Penrose, under Gabriel Cerré, is entitled to receive a patent for the tract above-mentioned. FREDERICK BATES.

Jno. McKnight—Deed to O'Fallon.

17. Jno. McKnight to O'Fallon.

This deed, made and concluded this twenty-fifth day of January, in the year of our Lord one thousand eight hundred and twenty-three, by and between Thomas McKnight, attorney in fact of John McKnight, of the town and county of St. Louis and State of Missouri, of the one part, and John O'Fallon, of the same place, of the other part, witnesseth: That the said party of the first part, for and in consideration of the sum of fifteen thousand (15,000) dollars lawful money of the United States, to the said party of the first part in hand well and truly paid and satisfied, by the said party of the second part, the receipt whereof is hereby acknowledged; and the said party of the second part, from the payment of the same, forever acquitted and discharged, hath given, granted, bargained, sold, and conveyed, and doth by these presents give, grant, bargain, sell, and convey unto the said party of the second part all that certain tract or parcel of land lying and being situate about three and a half miles north of the town of St. Louis, commonly called the "Distillery tract," together with all and singular the rights, privileges, way, commons, water-courses, improvements, buildings, dwelling houses, outhouses, storehouses, fences, and appurtenances of whatsoever nature or kind they may be, bounded, butted, and described as follows, to wit: Beginning at a stone on the northern boundary line of the common-field tract of the Grand Prairie, and at the corner of the said tract now or late belonging to Abraham Gallatin; thence with the line of the said Gallatin's tract north thirteen and a half degrees (13½) east, sixty-two chains (62) and eighty (80) links to a stone on the said line called Penrose's western boundary line; thence with that line north thirty-eight (38) degrees west, three chains and sixty links, to the line of a tract of land belonging to Alexander McNair; thence with that line fifty-five (55°) degrees east, to a stone on the bank of the River Mississippi; thence down said river with the several meanders thereof to a stone at the northeast corner of a tract of land belonging to the heirs of Thomas Brady, deceased; thence with the line of the said tract south fifty-five degrees (55°) west, eighty-five (85) chains to the said line called Penrose's western boundary line; thence with that line north thirty-eight (38°) west, eleven chains ninety-two links, to another tract of land belonging to the heirs of Thomas Brady, deceased; thence with a line of the same south fifty-two degrees (52°) west, forty-eight chains and fifty links, to a stone on the *on the* said western boundary line of the common-field tract; thence with the said line north sixty

degrees and a half (60½°) west, eight chains to the place of beginning, containing six hundred and thirty-seven (637) acres and two roods; on the above-described tract of land there is a steam distillery in full operation. To have and to hold the said above described tract of land, with all and singular the rights and appurtenances thereunto belonging, or in any wise appertaining, unto him, the said party of the second part, heirs and assigns, forever; and the said party of the first part, for himself, his heirs, executors, and administrators, doth covenant and agree to and with the said party of the second part, his heirs, executors, administrators, and assigns, to warrant and forever defend the same against the claim or claims of any person or persons whomsoever.

In testimony whereof, I, the said Thomas McKnight, attorney in fact of the said John McKnight, duly authorized and empowered to sell and transfer, in the name of the said John McKnight, the above described tract of land, with the appurtenances thereunto belonging, (as will more fully appear by reference to a power of attorney from said John to said Thomas, recorded in the office of the clerk of the circuit court of the county of St. Louis, in book D, pages one hundred and eighty-three and following,) have hereunto set my hand and seal, at St. Louis, the day and year first above-mentioned.

JOHN McKNIGHT, [SEAL.]
By his attorney in fact, THOMAS McKNIGHT, [SEAL.]

Executed in presence of—
A. GAMBLE,
JNO. BURT.

STATE OF MISSOURI,
County of St. Louis.

This day personally appeared before me, the clerk of the circuit court for the county of St. Louis, the above-named Thomas McKnight, who is well known to me as the person executing the foregoing deed, and acknowledged the above and foregoing deed to John O'Fallon to be his act and deed, hand and seal, as the attorney in fact of John McKnight, therein named.

Given under my hand and seal of office at St. Louis, this [SEAL.] twenty-fifth day of January, eighteen hundred and twenty-three.

ARCHIBALD GAMBLE, *Clerk.*

Recorded Jan'y 30th, 1823.

ARCHIBALD , *Clerk.*

STATE OF MISSOURI,
St. Louis county.

I, the undersigned recorder for said co., certify that the foregoing is a full and complete copy of an instrument of writing, and of the certificate of acknowledgment, and date of recording thereof, as fully as

the same remains of record in my office in book L, page 262 and foll'g.

Witness my hand and official seal, this 14th day of April,
[L. S.] 1855. C. KEEMLE, *Recorder.*

Deed—Smith to McNair.

18. Smith to McNair.

This indenture, made the seventh day of September, in the year of our Lord one thousand eight hundred and twelve, between Elijah Smith, of the town and district of St. Louis, in the Territory of Louisiana, alias Missoury, butcher, of the one part, and Alexander McNair, of the town, district, and territory aforesaid, esquire, of the other part, witnesseth: That the said party of the first part, for and in consideration of the sum of six hundred and fifty dollars, lawful money of the United States, by the said party of the second part, to him in hand paid, at and before sealing and delivery of these presents, the receipt thereof is hereby acknowledged, hath this day granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, and confirm, unto the said party of the second part, his heirs and assigns, forever, all that certain tract or parcel of land situate, lying and being in the district of St. Louis, on or near the river Gingras, being three arpens in front by forty in depth, forming a superficie of one hundred and twenty arpens, more or less, fronting on the river Mississippi, and bounded southerly by land, the property of Clement B. Penrose, northerly by the land of Joseph Morin, and westerly by land of Joseph Brazeau, the same being purchased by the said party of the first part from Pelagie Peletier, (alias Pelagie Morin,) Michael Morin, Victoire Morin, and Joseph Morin, as by deed for the same, bearing date the twenty-sixth day of October, in the year eighteen hundred and nine, reference being thereto had, more fully appears, with all and singular the buildings, improvements, and appurtenances to the same belonging, or in anywise appertaining, and all the right, title, and interest of him, the said party of the first part, both at law and in equity, of, in, to, and out of the said granted, or intended to be granted premises, with the appurtenances; to have and to hold the said tract or parcel of land, so as aforesaid described, together with all and singular the buildings and improvements, and every part and parcel thereof, with their and every part and parcel thereof, with the appurtenances to the same belonging, unto the said Alexander McNair, his heirs, and assigns, against him, the said Elijah Smith, and his heirs, and against all and every person or persons whatsoever, claiming, or to claim, any right, title, or interest, in and to the same, or any part thereof, shall and will hereafter warrant and forever defend.

In testimony whereof the said Elijah Smith hath hereunto set his hand, and affixed his seal, this day and year first above written.

E. SMITH, [SEAL.]

Signed, sealed and delivered, in the presence of—
VINCENT BONISTEMOINS,
J. V. GARNIER.

DISTRICT OF ST. LOUIS,
St. Louis township.

Be it remembered, that on this seventh day of September, in the year of our Lord one thousand eight hundred and twelve, personally appeared before me, the subscriber, a justice of the peace in and for the township aforesaid, Elijah Smith, and acknowledged the within deed of instrument of writing to be his act and deed for the purposes therein mentioned, and the property thereby transferred, or intended so to be, to be the property of, and of right to belong to, the within named Alexander McNair.

Given under my hand, this day and year first above written.

J. V. GARNIER, *J. P.*

Recorded this 11th day of September, 1812.

M. P. LEDUC, *Recorder.*

STATE OF MISSOURI,
St. Louis county.

I, the undersigned recorder for said co., certify that the foregoing is a full and complete copy of an instrument of writing, and of the certificate of acknowledgment, and date of recording, as fully as the same remains of record in my office in book D, page 49.

[L. S.] Witness my hand and official seal, this 16th day of April, 1855.

C. KEEMLE, *Recorder.*
Pr. L. BABCOCK, *Dept.*

Deed—P. Peletier to A. McNair.

19. P. Peletier to A. McNair.

This indenture, made and entered into this twenty-eighth day of June, in the year of our Lord one thousand eight hundred and thirteen, by and between Pelagie Pelletier, widow of Antoine Morin, deceased, Joseph Morin and Amelia, his wife, Genevieve Gates, and John P. Gates, her husband, Pelagie Richard, widow of Bertilma Richard, deceased, Michel Morin, Baptiste Morin, Alexis Morin, Victoire Morin, Robert A. Smith and Julie, his wife, Bazil Hubert and Farris, his wife, Henry Morin, heirs and representatives of Antoine Morin, deceased, of the first part, and Alexander McNair, all of the Territory of Missouri, of the second part, witnesseth: That they, the said parties of the first part, and each of them, for and in consideration of the sum of three hundred and eighty dollars to them in hand duly paid before the signing and sealing of these presents, the receipt whereof is hereby acknowledged by them, the said parties of the first part, and each of them, and therefrom, and every part thereof, do hereby give, grant unto him, the said Alexander McNair, a full and entire discharge and acquittance, have this day bargained, sold, and conveyed, aliened, enfeoffed, and confirmed, and by these presents do bargain, sell, and

convey, alien, enfeoff, and confirm unto him, the said Alexander McNair, a certain tract or parcel of land containing eighty arpens, being two arpens in front and forty deep, situate, lying and being in the county of St. Louis, in the territory aforesaid, about four or five miles north of the town of St. Louis, and bounded as follows, to wit: Beginning on the bank of the river Mississippi at the upper corner of a tract of land, now the property of the said Alexander McNair, of one hundred and twenty arpens, purchased by said McNair of Elijah Smith, who purchased it by the name (through mistake or error) of Elisha Smith, who purchased the same of the above-named Pelagie Pelletier, alias widow Morin, Michel Morin, and Joseph Morin, by deed bearing date the twenty-sixth day of October, eighteen hundred and nine, being part of the same original tract of land out of which the first above-mentioned quantity of eighty arpens is taken and hereby sold, which said sale and deed to the above-named Elisha, meaning Elijah Smith, for the aforesaid quantity of one hundred and twenty arpens of land, we, and each of us, do hereby sanction, acknowledge, and recognise to be good and binding on us, and each of us, and running from the said upper corner on the Mississippi river up the said river two arpens, thence westwardly by a parallel line with the said Alexander McNair above-mentioned tract of one hundred and twenty arpens, so as to include the said quantity of eighty arpens, thence running with the western boundary of said original tract of land, (for which a commissioner's certificate, No. 672, issued to the said widow, and the heirs and representatives of Antoine Morin, the twenty-ninth of May, eighteen hundred and *leven*,) south two arpens to the corner of said McNair: to have and to hold the said tract of eighty arpens of land, with all and singular the *re*-privileges and appurtenances hereunto belonging, or in any wise appertaining, unto him, the said Alexander McNair, his heirs and assigns forever; and they, the said parties of the first part, and each of them, for their heirs, executors, and administrators, as well as for themselves, do hereby expressly covenant and agree with the said Alexander McNair that they will forever warrant and *deffend* the aforesaid bargained and sold premises unto him, the said McNair, his heirs and assigns, free from the claim or claims of all and every person or persons whomsoever.

In testimony whereof, we and each of us have hereunto set our hands and affixed our seals, the day and year first above written, (the *wort* part being first interlined in the presence of the witnesses hereto.)

PELAGIE her ⋈ mark. PELLETIER, *Veuve Morin.*

PELAGIE her ⋈ mark. RICHARD, [SEAL.]

JULIE her ⋈ mark. SMITH, [SEAL.]

R. A. A'RNAS SMITH, [SEAL.]

his
ALEXIS ⋈ MORIN, [SEAL.]
mark.

her
GENEVIEVE ⋈ GATES, [SEAL.]
mark.

his
JOSEPH ⋈ MORIN, [SEAL.]
mark.

her
BAPTISTE ⋈ MORIN, [SEAL.]
mark.

his
MICHEL ⋈ MORIN, [SEAL.]
mark.

her
VICTOIRE ⋈ MORIN, [SEAL.]
mark.

JOHN P. GATES, [SEAL.]

her
THERESE ⋈ HUBERT, [SEAL.]
mark.

Signed, sealed, and delivered in the presence of us—

THOS. *ff.* RIDDICK, JOHN *cfs.* THOMPSON, as to the signing of Henry and Joseph Morin.

P. LEE, witness.

WILL. TAYLOR, as to the signature of Michel Morin.

TERRITORY OF MISSOURI,
County of St. Louis, ss:

Be it remembered, that on this twenty-eighte day of June, one thousand eight hundred and thirteen, before me, the subscriber, a justice of the peace for the township of St. Louis, personally appeared the within named Pelagie Pelletier, widow of Antoine Morin, Robert A. Smith, Genevieve Gates, Baptiste Morin, Victoire Morin, Therese Hubert, Pelagie Richard, and Julie Smith, who severally acknowledged the within deed of conveyance to be their proper act and deed for the purposes within mentioned; and the said Julie Smith, Therese Hubert, and Genevieve Gates, being by me examined separate and apart from their husbands, acknowledged to have executed this instrument voluntarily, without fear or compulsion of their husbands, and relinquish all right of dower *wich the* might claim; and that the same may be admitted of record.

Given under my hand and seal, day and date above written.

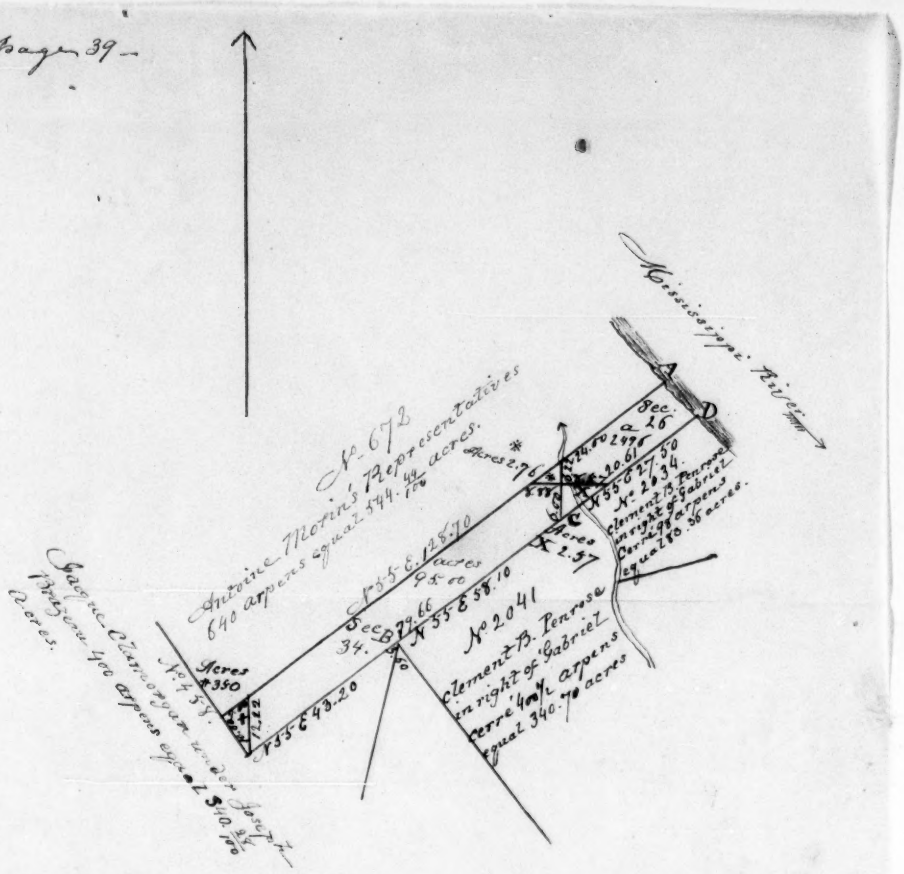
THO. *ff.* RIDDICK, *J. P.*, [SEAL.]

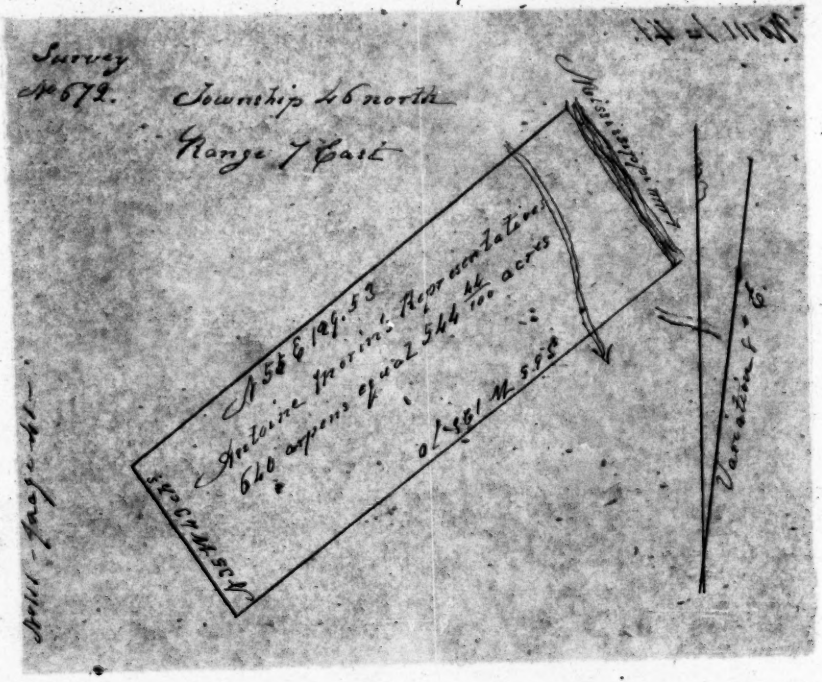
Recorded this 27th day of June, 1814.

M. P. LEDUC, *Cl'k, ex off. Recorder.*

STATE OF MISSOURI,
County of St. Louis, ss:

I, the undersigned recorder for said county, certify, that the foregoing is a true and correct copy of an instrument of writing, and of


Mississippi River
A
D
Sec. a 16
No 2.041
Clement B. Penrose
in right of Gabriel
Perre 400 arpens
equal 340.70 acres
No 2.134
Clement B. Penrose
in right of Gabriel
Perre 99 arpens
equal 84.36 acres.
Antoine Morin's Representatives
640 arpens equal 544.49/100 acres.
No 672
Gaspard Chapronyan under Joseph
Pratzen 400 arpens equal 340.90/100 acres.
No 4.558
Acres 390
Acres 2.76
Acres 2.57
N 55 E 128.10
95.00
Dec B 79.66
34.
N 55 E 58.10
N 55 E 43.20
N 55 E 20.61
N 55 E 27.50


Survey
No 672. Township 46 north
Range 7 East
N 58 E 19.53
Antoine Morin's Reservation
640 acres equal 544 44/100 acres
N 35 W 13.25
Variation 7°
Scale 1 in.

the certificate of acknowledgment, and also of the date of filing and recording thereof, as fully as the same remains of record in my office, in book D, page 441 and foll'g.

[L. S.] Witness my hand and official seal, this the 18th day of April, 1855.

C. KEEMLE, *Recorder.*

Defendant's Evidence.—J. K. Walker's Deposition.

Defendant's Evidence.—1. Walker's Deposition.

John K. Walker, being duly sworn, says: He has lived in St. Louis county since October, 1816; I lived in the town of St. Louis (now city) from 1818 to 1826, and since then I have lived in St. Ferdinand township in said county. I have known Col. John O'Fallon since 1818; he resided in the town (now city) of St. Louis, from the time he came to the State in 1818, till he removed out to his farm on the Bellefountain road, in 1836. I think he purchased his said farm some time between 1820 and 1823; he bought of John McKnight, who was of the firm of McKnight & Brady. I know the tract of land known as the Antoine Morin tract; it is immediately north of the Gabriel Cerré tract, which last-named tract said Gabriel Cerré sold to Clement B. Penrose; the southern boundary of the Morin tract is the northern boundary of Col. O'Fallon's farm, that he purchased from McKnight. I understand that Col. O'Fallon purchased a tract of land from Alexander McAllister, which was bounded on the south by the Penrose tract; east by the river; the western boundary I cannot state. I suppose it was 40 arpens west from the river; but I don't know; and on the north bounded by a part of the Morine tract. This tract that O'Fallon bought of McAllister was a part of the Antoine Morine tract. My impression is, and has always been, that Col. O'Fallon went into possession of the tract he bought of McAllister in 1830; at least as early as 1830, if not earlier. I was appointed collector of the revenue of St. Louis county in 1828–'9, and passed along then by this place almost every day in the year; and there was a good deal of talk at that time about Col. O'Fallon's going to shut up the Bellefountain road, and turning the travel west of his farm towards the Gallatin farm, now Shreve's; and afterwards Col. O'Fallon straightened the road and made it as it now runs to the Morine creek. This was done, I think, in 1829 or 1830. Gen'l Bissell died in 1833–'4, and the road was straightened as stated before Gen'l Bissell's death. Col. O'Fallon has been in possession of the before-mentioned McAllister tract of land ever since, and for some time before, the death of Gen'l Bissell. I do not know how the Morin tract is bounded by the official survey made by the United States; but I have understood that a part of the Morine tract, that is, the excess, was thrown off from the south; and this was done, as I understood, at the request of Alexander McNair, who had his house on the part thrown off, and who wanted to pre-empt the part thrown off.

Cross-examined by plff.—Mrs. Catharine Dodge pre-empted the part of the Morine tract that was thrown off on the south. I first knew Mrs. Dodge as a member of Alexander McNair's family in 1818, and for a long time after. McNair, I think, died in 1826. Mrs. Dodge never lived in a separate tenement on said land, so far as I know; but lived with McNair in the town of St. Louis, near the corner of Elm and Main street. McNair lived on the farm sold by McAllister to Col. O'Fallon, as aforesaid, in 1823. Mrs. Dodge never lived on that farm, that I know of; she may have lived in the family of McNair while he was on the farm, but I don't know the fact. Col. O'Fallon cultivated this McAllister tract as early as *as* 1830; this is my impression, and which is very strong, but I will not swear positively that it is so. This tract of land was partly enclosed when McAllister sold it to O'Fallon; when I sold the land under the judgment of foreclosure against McNair, I don't remember that McAllister paid me any money for his purchase; but it was not usual for a plaintiff to pay any thing on his own execution when he bid off the property. I presume McAllister paid the costs.

JNO. K. WALKER.

Mortgage by McNair and wife to Mullanphy.

2. Mortgage by McNair and wife to Mullanphy—2+40 arpens.

This indenture, made and concluded the twenty-sixth day of January, in the year of our Lord one thousand eight hundred and twenty, by and between Alexander McNair and Margaret Reilhe, his wife, of the town and county of St. Louis, Territory of Missouri, of the one part, and John Mullanphy, of the aforesaid town, county and Territory, of the other part, witnesseth: That whereas the said Alexander McNair and Margaret, his wife, in and by a certain obligation or writing obligatory, under their hands and seals, bearing even date herewith, stand bound unto the said John Mullanphy in the sum of five thousand five (5) hundred dollars, lawful*l* money of the United States, payable on the twenty-sixth day of January, one thousand eight hundred and twenty-one, with interest for the same till full and entire payment of the said sum of, at the rate of ten per cent. per annum, as in and by the said recited obligation and condition thereof, relation being thereunto had, more fully and at large appears: Now this indenture witnesseth, that the said Alexander McNair and Margaret, his wife, as well for and in consideration of the aforesaid debt or sum of five thousand five hundred dollars, and for the better securing the payment thereof, with interest, unto the said John Mullanphy, his heirs, executors, administrators, or assigns, in discharge of the said recited obligation, as for the further sum of one dollar to them in hand paid by the said John Mullanphy, at and before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and confirmed, and by these presents do grant, bargain, sell, release, and confirm unto the John Mullan-

phy, his heirs and assigns, the following tracts of land, and town-lot hereafter described, to wit:

A tract of land lying and being situated at about six miles north of the town of St. Louis, being two arpens in front on forty arpens in depth, containing eighty arpens superficial measure, bounded eastwardly by the Mississippi river, and northwardly by a tract of land now belonging to the said Alexander McNair; it being the same tract of land purchased by the said Alexander McNair from the heirs of Antoine Morin, deceased, by deed of conveyance, dated the twenty-eighth day of June, one thousand eight hundred and thirteen, and recorded in the office of the clerk of the circuit court in the county of St. Louis, book D, page four hundred and forty-one, (441;) also, another tract of land adjoining the tract above described, being seven arpens in front on forty arpens in depth, containing two hundred and eighty arpens superficial measure, bounded eastwardly by the Mississippi river, northwardly by lands belonging to Will'm C. Carr, and westwardly by land formerly belonging to Samuel Bridge; it being the same tract or parcel of ground purchased by the said Alexander McNair of the heirs of Antoine Morin, deceased, by deed of conveyance, dated the twenty-third day of September, one thousand eight hundred and fifteen, and recorded in the office of the clerk of the circuit court of the county of St. Louis, in book F, page twenty-nine, (29;) and, finally, a piece of ground or town-lot in St. Louis, having feet front on first Main street, on one hundred and fifty feet, French measure, in depth; the said lot bounded eastwardly by the said first Main street; northwardly by the town-lot formerly the property of Patrick Lee; westwardly by a town-lot belonging to the heirs of Louis Bompart, now occupied by Henry Deloriere, and southwardly by a cross-street which separates the said lot of the town-lots now occupied by Michel La Deroute and T. Menard, together with all and singular the houses, buildings, outbuildings, garden fences, improvements, rights, privileges, and appurtenances whatsoever to the said tracts of land and town-lot belonging, or in any wise appertaining, and the rents, issues, and profits thereof. To have and to hold the two afore-described tracts of land and town-lot, hereditaments and premises hereby granted and mentioned, or intended so to be, with the appurtenances, unto the said John Mullanphy, his heirs and assigns, to the only proper use, benefit, and behoof of the said John Mullanphy, his heirs *an* and assigns forever.

Provided always, nevertheless, that if the said Alexander McNair, his heirs, executors, or administrators, shall do, well and truly pay, or cause to be paid, unto the said John Mullanphy, his heirs, executors, administrators, or assigns, the aforesaid debt, or sum of five thousand five hundred dollars, on the day and time hereinbefore mentioned and appointed for the payment thereof, with interest for the same, at the rate of ten per cent. per year, till full and entire payment of the said sum without any further delay, and without any deduction, defalcation, or abatement, to be made of anything for or in respect of any taxes, charges, or assessments whatsoever, then and from thenceforth, as

well this present indenture, as the said recited obligation, shall cease, determine, and become absolutely null and void to all intents and purposes, anything herein contained, to the contrary, in anywise notwithstanding; and lastly, it is covenanted, granted, concluded, and agreed upon, by and between the said parties to these presents, and the true intent and meaning hereof, and it is hereby declared so to be, that until default shall be made in payment of the said sum of five thousand five hundred dollars, and interest as aforesaid, or any part thereof, it shall and may be lawful, to and for the said Alexander McNair, his heirs, or assigns, to have, hold, and enjoy all and singular the said two tracts of land and town-lot, with the appurtenances above bargained and sold in manner aforesaid, and take the rents, issues, and profits thereof, to his and their own proper use and benefit, anything herein contained, to the contrary thereof, in anywise notwithstanding.

In witness whereof, the said Alexander McNair and Margaret, his wife, and the said John Mullanphy, have hereunto set their hands and seals, day and date above written.

A. McNAIR, [SEAL.]
MARG'T S. McNAIR, [SEAL.]
JOHN MULLANPHY, [SEAL.]

Sign'd seal'd and deliv'd in presence of—
F. M. GUYOL.

TERRITORY OF MISSOURI,
County and township of St. Louis, sct:

Be it remembered, that on second day of February, in the year of our Lord one thousand eight hundred and twenty, personally appeared before me, one of the justices of the peace in and for the county and township aforesaid, the within named Alexander McNair and Margaret, his wife, and acknowledged the within instrument of writing to be their and each of their act and deed, by them signed and sealed for the purposes therein contained; and the said Margaret, wife of the said Alexander, being first by me examined, separately and apart from her aforesaid husband, declares that she executed the same of her free will and accord, without restraint, constraint, or undue influence of her said husband.

In testimony whereof, I have hereunto set my hand and seal, day and date above written; and also, at the same time the within named John Mullanphy appeared before me, and acknowledged the within instrument of writing to be his act and deed, hand and seal, for the purposes therein mentioned. In testimony whereof, I have hereunto set my hand and seal, on the said date.

F. M. GUYOL, *J. P.* [L. S.]

Recorded this 5th day of February, 1820.

ARCHIBALD GAMBLE, *Clerk.*

STATE OF MISSOURI,
County of St. Louis, ss:

I, the undersigned, recorder in and for the county of St. Louis, do hereby certify the foregoing to be a full and complete copy of a deed from Alexander McNair and Margaret Reilhe, his wife, to John Mullanphy, as also of the certificate of acknowledgment, and of the date of recording thereof, as fully as the same remains of record in my office, in book I, pages 54 and foll.

Witness my hand and official seal, this 30th day of December,
[L. S.] 1853.

S. D. BARLOW, *Recorder.*

Sheriff's Deed to Mullanphy on foreclosure of above Mortgage.

3. Sheriff's deed to Mullanphy on foreclosure.

To all to whom these presents shall come: I, John K. Walker, sheriff of the county of St. Louis, in the State of Missouri, send greeting: Whereas a certain writ of execution issued from the clerk's office of the circuit court within and for the county of St. Louis, returnable to the October term of said court, in the year one thousand eight hundred and twenty-four, in favor of John Mullanphy, against Alexander McNair, which execution being directed to the sheriff of St. Louis county, and to me, the said sheriff delivered, a copy whereof is hereunto annexed, and makes a part and parcel of this deed, by virtue of which said writ of execution, I, the said sheriff, on the first day of September, in the year one thousand eight hundred and twenty-four, did levy upon and seize all the right, title, interest, claim, estate, and property of him, the said Alexander McNair, and to the following described real estate, to wit:

First, a tract of land situated about six miles north of the city of St. Louis, containing the quantity of two arpens in front on the Mississippi, by forty arpens deep, and bounded eastwardly by the Mississippi river; on the north by the tract of land next hereinafter described, and is the same tract of land acquired by the said McNair of the heirs of Antoine Morin, deceased, as will appear by reference to the deed of conveyance bearing date June the 28th, 1813, and recorded in the recorder's office of St. Louis county, in book D, page 441.

Secondly, a tract of land containing the quantity of seven arpens front on the Mississippi, by forty arpens deep, making two hundred and eighty arpens superficial measure, and bounded on the east by the Mississippi river, on the north by land of William C. Carr, on the west by land heretofore the property of Samuel Bridge, and on the south by the tract of land above described, and was acquired by said McNair, of the heirs of Antoine Morine, by deed bearing date September 23d, 1815, and duly recorded in the aforesaid recorder's office, in book F, page 29.

Thirdly, a tract of land situated on the river Merrimack, containing the quantity of six hundred and forty acres, it being the settlement

right of one John Guiyer, and was acquired by the said McNair of Antoine E. Reilly, by deed bearing date December the sixth, 1814.

Fourthly. A lot of ground with the buildings and improvements thereon, situated in the city of St. Louis, containing the quantity of feet front, on Main street, by one hundred and fifty feet deep, French measure, and bounded on the east by said Main street, on the south by a cross-street called South D street, on the west by a lot heretofore occupied and perhaps owned by one Henry Delaurier, and north by the lot next hereinafter described.

Fifthly. A lot of ground containing twenty-five feet front on Main street, by twenty-five deep, French measure, and bounded on the east by said Main street, on the north by a lot of William Schlatter, on the west by a lot heretofore owned by Patrick Lee, and on the south by the lot above described, and is the same lot of ground acquired by the said McNair of Patrick Lee and wife, by deed bearing date August the 7th, 1815.

Sixthly. A lot of ground situated on the hill in the said city of St. Louis, and bounded on the one side by the lot of Joseph Papin, on another side by a lot of Joseph Solois, and on another side by the line of the old forty-arpen lots, and contains the quantity usually granted for barn-lots, and is the same property acquired by the said McNair of Jacques Chouvin, by deed bearing date November 23d, 1812.

Seventh. A lot of ground in the southern part of the city of St. Louis, bounded on the east by a lot heretofore owned by Esther, a free mulatto woman, on the south by a lot of "one St. Pierre," and on the north by a cross-street, being the same lot of ground acquired by the said McNair of Frederick Bates and others, by deed bearing date November 9th, 1813.

And the same having been advertised as the law directs, by setting up six advertisements or handbills in the most public places in different parts of my county, at least twenty days before I exposed the same to sale, a copy of which advertisement is hereunto annexed, and also makes a part and parcel of this deed; by virtue of which said writ of execution and advertisement, I did, on the sixth day of October, one thousand eight hundred and twenty-four, agreeably to the advertisement thereof, at the court-house door, during the sitting of the circuit court of St. Louis county, expose to public sale for ready cash all the right, title, claim, interest, estate, and property of the said Alexander McNair, in and to the above described tracts of land and lots of ground, together with all and singular the buildings, out-houses, improvements, rights, privileges, and appurtenances to the same or either of them of right belonging; and John Mullanphy, of the couhty of St. Louis, being the highest and last bidder for the tract of land first described at the price and sum of eighty dollars; and for the tract of land secondly described, the sum of one thousand one hundred and twenty dollars; and for the tract of land thirdly described, the sum of six hundred and forty dollars; and for the lot of ground fourthly above described, the sum of six hundred and fifty dollars; and for the lot of ground fifthly described,

the sum of one hundred dollars; and for the lot of ground sixthly described, the sum of seventy dollar; sand for the lot of ground seventhly described, the sum of forty dollars—making in all the sum of two thousand seven hundred dollars—the same were stricken off and sold to him, the said John Mullanphy.

Now, therefore, know ye, that I, John K. Walker, sheriff as aforesaid, for and in consideration of the sum of two thousand seven hundred dollars to me in hand paid by the said John Mullanphy, the receipt whereof I do hereby acknowledge, and by virtue of the authority in me vested by law, I do hereby transfer and assign to him, the said John Mullanphy, all the right, title, claim, interest, estate, and property of him, the said Alexander McNair, of, in, and to the above described tracts of land and lots of ground, that I might sell agreeably to law as sheriff as aforesaid, by virtue of the aforesaid writ of execution and advertisement: To have and to hold the same unto him, the said John Mullanphy, and to his heirs and assigns forever.

In witness whereof, I, John K. Walker, sheriff of the county of St. Louis, have hereunto set my hand and seal, at St. Louis, this sixteenth day of October, one thousand eight hundred and twenty-four, and of the independence of the United States the forty-ninth.

[SEAL.]

JOHN K. WALKER, *Sheriff.*

COUNTY OF ST. LOUIS, *ss:*
State of Missouri.

To the Sheriff of St. Louis county, greeting:

Whereas John Mullanphy, at our circuit court before our judge thereof, hath recovered against Alexander McNair the sum of seven thousand three hundred and eighty-eight dollars and twenty-nine cents, for his damages by him sustained by reason of the breach of the covenant in the declaration mentioned; and also his costs and charges by him about his suit in that behalf expended, which to the said John Mullanphy were adjudged, as appears to us of record:

These are therefore to command you, that of the goods and chattels, lands and tenements of the said Alexander McNair, in your bailiwick, you cause to be made the aforesaid damages and costs, and that you have the same before the judge of our said court on the first Monday of October next, to render to the said John Mullanphy the damages and costs aforesaid. And for want of sufficient goods and chattels, lands and tenements whereon to levy and make the same, we command you to take the said Alexander McNair, if he be found in your bailiwick, and him safely keep, so that you may have his body before the said judge on the said first Monday of October, to satisfy the said John Mullanphy of the aforesaid damages and costs; and that you certify to our said judge how you execute this writ; and have you then and there this writ.

Witness Archibald Gamble, clerk of our said court, at St. Louis, this twentieth day of August, in the year of our Lord one thousand eight hundred and twenty-four.

[L. S.]

ARCHIBALD GAMBLE, *Clerk.*

The above is a true copy of the execution.

JOHN K. WALKER, *Sheriff.*

Sheriff's Sale.

By virtue of a writ of execution to me directed from the circuit court in favor of John Mullanphy against Alexander McNair, I have levied upon and will sell for cash to the highest bidder, at the court-house door in St. Louis, on Wednesday, the sixth day of October next, between the hours of nine and four, the following described real estate of said defendant, to wit:

1st. A tract of land about six miles north of St. Louis, containing two arpens front by 40 arpens deep, bounded east by the Mississippi, and north by land of said McNair.

2d. A tract of land adjoining the above, containing seven arpens front by forty arpens deep, bounded east by the Mississippi, north by land of W. C. Carr, west by land heretofore belonging to Samuel Bridge, and south by the tract above described.

3d. A tract of land situated on the Merrimack, containing six hundred and forty acres, being the settlement right of one John Guiyer, and acquired by said McNair of Antoine E. Reilly, by deed bearing date December 6th, 1814.

4th. A lot of ground in St. Louis, containing feet front on Main street, by one hundred and fifty feet on a cross-street; on this lot stands the white house occupied by said McNair, and the house occupied by Mackey Wherry, esq.

5th. A lot in St. Louis, containing twenty-five feet front on Main street, by seventy-five feet deep, bounded east by said Main street, south by the lot above described, on the north and west by a lot of William Schlatter.

6th. A lot on the hill now occupied by David Massey, esq., as a garden, containing the quantity granted for barn-lots, and is the same property acquired by said McNair of Jacques Chouvin, by deed bearing date November 23d, 1812.

7th. A lot on 3d street, bounded east by a lot of Esther, a negro woman, south by a lot of "St. Pierre," and north by a cross-street, acquired by said McNair of Frederick Bates and others, by deed bearing date Novr. 9th, 1813.

8th. A lot containing thirty-eight feet front, by one hundred and twenty feet deep, (more or less,) bounded north by a cross-street, east by a lot of Cartmill, west by a lot of Michel Laderout, and south by a lot

of Madam Charleville, and is the same property acquired by said McNair of Wm. Cartmill and wife, by deed bearing date April 21st, 1821.

St. Louis, September 1st, 1824.

JOHN K. WALKER, *Sheriff.*

The above is a true copy of the advertisement.

JOHN K. WALKER, *Sheriff.*

STATE OF MISSOURI, *County of St. Louis, ss:*

Be it remembered, that on this sixteenth day of October, A. D. 1824, John K. Walker, sheriff of the county of St. Louis, personally appeared in open court, and acknowledged the execution of the within deed from him as sheriff to John Mullanphy therein named, which said acknowledgment is entered on the records of that day.

Given under my hand and seal of office at St. Louis, this 16th day of October, A. D. 1824.

[L. S.]

ARCHIBALD GAMBLE, *Clerk.*

Recorded Dec'r 20th, 1824.

ARCHIBALD GAMBLE, *Clerk.*

STATE OF MISSOURI, *County of St. Louis, ss:*

I, the undersigned recorder in and for the county of St. Louis, do hereby certify the foregoing to be a full and complete copy of a deed from Alexander McNair by sheriff to John Mullanphy, as also of the certificate of acknowledgment, and of the date of recording thereof, as fully as the same remains of record in my office, in book M, page 192, and foll.

Witness my hand and official seal, the 30th day of December, 1853.

[L. S.]

S. D. BARLOW, *Recorder.*

Copy of survey of Jos. Morin, jun'r.

4. Copy of Survey of Jos. Morin, jun.

Survey No. 3,220.—Plat and description of the survey of a tract of land of one hundred and sixty arpens, equal to one hundred and thirty-six acres and eleven hundredths of an acre, situate in township 46 north of the base line, range 7 east, of the 5th principal meridian, in the State of Missouri, executed the 4th of September, 1841, by Joseph C. Brown, deputy surveyor, under instructions from Silas Reed, surveyor of the public lands in the States of Illinois and Missouri, dated the 3d of September of same year. This being the tract granted to Joseph Morin, junr., on the 9th September, 1797, by Zenon Trudeau, lieutenant governor of the Spanish province of Upper Louisiana, surveyed on the 16th of November, 1799, by Antoine Soulard, surveyor general of the said province, and confirmed to said Joseph Morin, junr., or to his legal representatives, by an act of Congress approved on the 4th day of July, 1836, entitled "An act confirming claims to land in the State of Missouri, and for other purposes," according to the decision

number 116 of the board of commissioners appointed under the act of Congress of the 9th of July, 1832, entitled "An act for the final adjustment of private land claims in Missouri," and the act of Congress of the 2d of March, 1833, supplemental thereto.

T. 46 N., R. 7 E., of the 5th pl. M.

[For plat, see original, p. 66.]

Description.—Beginning at a stone the west corner of survey number six hundred and seventy-two, in the name of Antoine Morin's representatives, and the south corner of this survey; thence north thirty-three degrees west, at one chain a stone the most northern corner of survey number four hundred and fifty-eight, in the name of Jacques Clamorgan, under Joseph Brazeau, and the east corner of survey number one thousand eight hundred and ninety-five, in the name of Francis St. Cyr or legal representatives, and at twelve chains and fourteen links a stone the south corner of Antoine Roy's survey number nine hundred and twenty-six, and the west corner of this survey; thence north fifty-five degrees and forty-five minutes east, with the southeast boundary of the Roy survey; at two chains and twenty-eight links, a red-oak nine inches in diameter; at twenty-eight chains the west edge of a road from Saint Louis to Bellefountain; at forty-one chains and fifty links the foot of the hill, and a point in the western edge of a farm about one hundred links south of a ditch; at ninety-one chains the northeast end of the cultivated land; at ninety one chains and eighty links a point sixty-seven links northward of the east end of the ditch; at one hundred and thirteen chains and forty links a creek fifty links wide runs southward; and at one hundred and twenty-four chains and five links a cotton-wood four inches in diameter on the right bank of the Mississippi river, the north corner of this survey, and the east corner of the Antoine Roy survey, from which a sycamore sixty inches in diameter bears south sixty-one degrees and forty-five minutes west, ninety-four links distant, and a cotton-wood seven inches in diameter bears south fifty-five degrees west twenty-six links distant; thence down and along the right bank of the Mississippi river south thirty four degrees and fifteen minutes east three chains; thence south fifty-five degrees and forty-five minutes west one chain; thence south thirty-four degrees and fifteen minutes east eight chains and ninety-eight links; thence south fifty-five degrees and forty-five minutes west fifty links, to a post the east corner of this survey and the north corner of the Antoine Morin survey, from which a burr-oak eight inches in diameter bears south seventy-eight degrees, west forty-nine links distant, and a hickory seven inches in diameter bears south twenty-two degrees and fifteen minutes, west fifty links distant; thence south fifty-five degrees and forty-five minutes west with the northwest boundary of the Antoine

Morin survey; at six chains and sixty links, a stump of a hackberry with old marks thereon; at nine chains the right bank of the creek fifty links wide, running southward; at thirty-one chains and fifty links, the higher bank at the eastern end of a large ditch, cut on the line and near the eastern edge of the cultivated land; at eighty-four chains and twenty-six links the southeast corner of a stone house; at ninety-two chains and ninety-one links a post at the west side of the Saint Louis and Bellefountaine road, and at one hundred and twenty-two chains and seventy-four links the beginning corner.

SURVEYOR'S OFFICE, ST. LOUIS,
September 20th, 1848.

The foregoing plat and description of survey number two thousand two hundred and twenty, are this day approved, as recorded on pages three hundred and sixty-nine and three hundred and seventy of this book.

(Signed) F. R. CONWAY,
Surveyor of the public lands in the States of Illinois and Missouri.

OFFICE OF THE SURVEYOR GENERAL, ST. LOUIS,
April 16th, 1855.

The foregoing plat and description of survey number three thousand two hundred and twenty, and the certificate of approval thereto, are correctly copied from pages 369 and 370 of book "D" of the records of Missouri private surveys, kept in this office.

———— ————, *Surveyor General.*

Agreement between O'Fallon and McAllister.

5. Agreement between O'Fallon and McAllister.

This agreement, made and entered into this 12th day of August, 1828, by and between John O'Fallon of the one part, and Alexander McAllister of the other, both of the county of St. Louis and State of Missouri, witnesseth: That, whereas Alex. McAlister aforesaid has conveyed to John O'Fallon, by deed of relinquishment, bearing date August the ninth, 1828, a certain tract or parcel of land, which he acquired of Catharine Dodge, by deeds bearing date Sept., 1824, and August, 1828, and by deed from the sheriff of St. Louis county, on sale to foreclose mortgage; which said tract is sold for the quantity of two hundred and seventy arpens, at the sum of $2,500; and, whereas, John Mullanphy has brought an action on an ejectment, in the circuit court, for a part of said tract: Now, therefore, it is agreed by and between the parties above named, that if said Mullanphy shall recover irretrievably any part of said tract, that the said A. McAlister shall pay to said O'Fallon a sum of money sufficient to make good to him the quantity of 270 arpens, that is to say, for every arpent which the said tract shall be reduced by said action at law, under the quantity of 270

arpens, said McAlister shall pay to said O'Fallon the sum of nine dollars and twenty-five cents.

Signed, sealed and delivered, this day and date above written.

JNO. O'FALLON, [SEAL.]
ALEXANDER McALISTER. [SEAL.]

In presence of—
BENJ'N O'FALLON.

Afterwards, at the term last aforesaid of our said court, on the 20th April, 1855, the following further proceedings were had herein, viz:

Appeal granted and Bond filed.

REUBEN L. LONG, &c., complainants,
vs.
JOHN O'FALLON, defendant.
} In chancery.

This day come again the complainants, by their solicitor, and pray an appeal from the decree rendered in this cause to the Supreme Court of the United States, which is allowed, and bond in the penalty of eight hundred dollars, executed by William A. Linn and Thomas C. Reynolds, which bond is approved by the court and filed with the papers in the cause.

Which said bond is as follows, viz:

Appeal Bond.

Circuit Court of the United States for the eighth circuit and Missouri district.—April term, 1855.

REUBEN L. LONG and others
against
JOHN O'FALLON.
} On appeal.

Know all men by these presents, that we, William A. Linn and Thomas C. Reynolds, are held and firmly bound unto John O'Fallon in the sum of eight hundred dollars, to be paid to the said John O'Fallon, his administrators and heirs; to the payment, well and truly to be made, we bind ourselves and each of us jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents; sealed with our seals, and dated this 20th day of April, 1855.

Whereas, the above named Reuben L. Long and others have prayed an appeal in the above entitled cause to the Supreme Court of the United States, to reverse the decree rendered in the above entitled cause by the circuit court of the United States for the Missouri district, on the 20th April, 1855: Now, therefore, the condition of this obligation is such, that if the above named Reuben L. Long and others shall well and truly prosecute the appeal to effect, and answer all damages and costs if they shall fail to make good their plea, then this obligation

shall be void; otherwise the same shall be and remain in full force and virtue.

W. A. LINN, [SEAL.]
THOMAS C. REYNOLDS. [SEAL.]

Sealed and delivered in the presence of—

DISTRICT OF MISSOURI, *sct.*

I, Benjamin F. Hickman, clerk of the United States circuit court for the district of Missouri, certify the foregoing sixty-nine pages, inclusive of this one, to be a full and complete transcript of the record and proceedings of said court, in a certain cause therein determined, wherein Reuben L. Long and others are complainants, and John O'Fallon defendant, as fully as the same remains of record and on file in my office.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at office in the city of St. Louis, this [SEAL.] second day of June, eighteen hundred and fifty-five.

BEN. F. HICKMAN, *Clerk.*